



Doing Business In the European Union: A Commercial Guide for U.S. Companies

INTERNATIONAL COPYRIGHT, U.S. & FOREIGN COMMERCIAL SERVICE AND U.S. DEPARTMENT OF STATE, 2006. ALL RIGHTS RESERVED OUTSIDE OF THE UNITED STATES.

- [Chapter 1: Doing Business In ...](#)
- [Chapter 2: Political and Economic Environment](#)
- [Chapter 3: Selling U.S. Products and Services](#)
- [Chapter 4: Leading Sectors for U.S. Export and Investment](#)
- [Chapter 5: Trade Regulations and Standards](#)
- [Chapter 6: Investment Climate](#)
- [Chapter 7: Trade and Project Financing](#)
- [Chapter 8: Business Travel](#)
- [Chapter 9: Contacts, Market Research and Trade Events](#)
- [Chapter 10: Guide to Our Services](#)

Chapter 1: Doing Business In the European Union

- [Market Overview](#)
- [Market Challenges](#)
- [Market Opportunities](#)
- [Market Entry Strategy](#)

Market Overview

[Return to top](#)

The United States and the European Union, with its 25 Member States, enjoy a mature economic relationship that is characterized by massive two-way trade and an extensive investment relationship. In 2004, U.S. exports of goods and services to the EU-25 were valued at \$173 billion, while U.S. imports from the EU-25 were valued at \$283 billion. EU investment employs more than 3.6 million Americans in the United States, while 4.1 million EU citizens work for U.S. companies in Europe.

Europe's GDP growth in the last several years has lagged behind that of the United States. This slower growth explains, in part, the current U.S. trade deficit with the EU. While improving slightly, unemployment in the EU remains stubbornly high at 8.6 percent, and significantly higher in some Member States. Efforts by certain Member States to address structural rigidities have met resistance.

Market Challenges

[Return to top](#)

While the European Union continues to move in the direction of a Single Market, the reality today is that U.S. exporters in some sectors continue to face barriers to entry in the EU market. Application of EU legislation, in the form of directives, is a responsibility of the European Commission, but working practices within Member States do differ and can affect adoption of EU regulations. Additionally, while the EU Community Customs Code aims to establish a standard legal framework for basic customs procedures such as customs entry and release, the EU does not currently operate as a single customs administration.

Market Opportunities

[Return to top](#)

U.S. business should benefit from several recent developments in the European Union:

- Enlargement in May 2004 added ten new Member States (i.e., Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, and Slovenia).
- Deregulation is proceeding in several sectors (i.e., airlines, telecommunications, energy and postal services).
- Recognition of veterinary equivalency between the EU and the U.S. seafood inspection system.
- Political commitment continues towards advancement of the Single Market in the areas of financial services, professional qualifications, company law and financial reporting, public procurement, and intellectual and industrial property.
- The euro, the European Union's common currency adopted by twelve Member States, began circulating January 1, 2002. Businesses face lower business transaction costs and more transparent pricing throughout the euro area compared to the challenges and costs of dealing in multiple currencies prior to the euro's introduction.

Historically, U.S. exporters and investors have faced relatively low barriers to doing business in the EU. Nonetheless, the United States has a number of ongoing disputes with the EU, a situation to be expected, given the breadth and depth of the commercial relationship. Discussions on a range of existing and potential trade irritants are ongoing, including such issues as EU restrictions on genetically modified organisms, biotechnology, different approaches to transparency in regulatory procedures, and different approaches to the role of standards and their development.

To ensure that U.S. companies get the full benefits of the trade agreements the United States has negotiated, the U.S. Government has developed a trade compliance initiative. U.S. trade agencies work closely and diligently with the business community to ensure that the European Union and its Member States comply with their bilateral and multilateral trade obligations, and to help keep market access problems affecting U.S. firms to a minimum.

In March 2003, the Secretary of Commerce announced a Department of Commerce Standards Initiative in response to industry concerns that foreign standards and technical regulation issues are becoming greater challenges to expanding exports. The Standards Initiative is intended to provide industry with a focal point within the Department of Commerce for standards-related issues that impede access by U.S. firms to foreign markets, including EU markets.

U.S. firms doing business in Europe should also be aware of the business facilitating activities of the Transatlantic Business Dialogue (TABD). The TABD is a forum for U.S. and European businesses that provides voluntary input to the U.S. Government and the European Commission on impediments to transatlantic business. For more information on TABD initiatives visit the TABD website: <http://www.tabd.com/>. Similar transatlantic dialogues are also held between governments and labor, environmental and consumer constituencies.

The European Union market is a differentiated one, with specific supply and demand needs varying from Member State to Member State. While a pan-European business strategy is critical, exact market entry strategies must be considered on a country-by-country-basis. For details of these tactics, please consult the Commerce Department's Country Commercial Guides of the 25 EU Member States which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

[Return to table of contents](#)

Chapter 2: Political and Economic Environment

For background information on the political and economic environment of the European Union, please click on the link below to the CIA's World Factbook.

<http://www.odci.gov/cia/publications/factbook/geos/ee.html>

[Return to table of contents](#)

Chapter 3: Selling U.S. Products and Services

- [Using an Agent or Distributor](#)
- [Establishing an Office](#)
- [Franchising](#)
- [Direct Marketing](#)
- [Joint Ventures/Licensing](#)
- [Selling to the Government](#)
- [Distribution and Sales Channels](#)
- [Selling Factors/Techniques](#)
- [Electronic Commerce](#)
- [Trade Promotion and Advertising](#)
- [Pricing](#)
- [Sales Service/Customer Support](#)
- [Protecting Your Intellectual Property](#)
- [Due Diligence](#)
- [Local Professional Services](#)
- [Web Resources](#)

Using an Agent or Distributor

[Return to top](#)

Companies wishing to use distribution, franchising and agency arrangements need to ensure that the agreements they put into place are in accordance with EU and Member State national laws. Council Directive 86/653/EEC establishes certain minimum standards of protection for self-employed commercial agents who sell or purchase goods on behalf of their principals. In essence, the Directive establishes the rights and obligations of the principal and its agents; the agent's remuneration; and the conclusion and termination of an agency contract, including the notice to be given and indemnity or compensation to be paid to the agent. U.S. companies particularly should be aware that the Directive states that parties may not derogate certain requirements. Accordingly, the inclusion of a clause specifying an alternate body of law to be applied in the event of a dispute will likely be ruled invalid by European courts.

Key Link: <http://europa.eu.int/scadplus/leg/en/lvb/l23024.htm>

The European Commission's Directorate General for Competition enforces legislation concerned with the effects on competition in the internal market of such "vertical agreements." Most U.S. exporters are small- and medium-sized companies and are therefore exempt from the regulations because their agreements likely would qualify as "agreements of minor importance," meaning they are considered incapable of affecting competition at the EU level but useful for cooperation between SMEs. Generally speaking, companies with fewer than 250 employees and revenues of less than €40 million are considered small- and medium-sized undertakings. The EU has additionally indicated that agreements that affect less than 10 percent of a particular market are generally exempted as well (Commission Notice 2001/C 368/07).

Key Link: <http://europa.eu.int/scadplus/leg/en/lvb/l26061.htm>

The EU also looks to combat payment delays with Directive 2000/35/EC. This covers all commercial transactions within the EU, whether in the public or private sector, primarily dealing with the consequences of late payment. Transactions with consumers, however, do not fall within the scope of this directive. In sum, the Directive entitles a seller who does not receive payment for goods/services within 30-60 days of the payment deadline to collect interest (at a rate of 7 percent above the European Central Bank rate) as compensation. The seller may also retain the title to goods until payment is completed and may claim full compensation for all recovery costs.

Key Link: http://europa.eu.int/comm/enterprise/regulation/late_payments/

Establishing an Office

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Franchising

[Return to top](#)

US businesses looking to Franchise within the European Union will likely find that the market is quite robust and friendly to Franchise systems in general. There are a number of laws that govern the operation of franchises within the EU, but these laws are fairly broad and generally do not constrain the competitive position of US businesses. The potential franchiser should take care to look not only at the EU regulations, but also at the local laws concerning franchising.

Direct Marketing

[Return to top](#)

Introduction

There is a wide range of EU legislation that impacts the direct marketing sector. Compliance requirements are stiffest for marketing and sales to private consumers. Companies need to focus, in particular, on the clarity and completeness of the information they provide to consumers prior to purchase, and on their approaches to collecting and using customer data. The following gives a brief overview of the most important provisions flowing from EU-wide rules on data protection, distance selling and on-line commerce. Companies are advised to consult the information available via the hyper-links, to check the relevant sections of national Country Commercial Guides, and to contact the Commercial Service at the U.S. Mission to the European Union for more specific guidance.

Processing Customer Data

The EU's general data protection Directive (95/46/EC) spells out strict rules concerning the processing of personal data. Businesses must tell consumers that they are collecting data, what they intend to use it for, and to whom it will be disclosed. *Data subjects* must be given the opportunity to object to the processing of their personal details and to opt-out of having them used for direct marketing purposes. This opt-out should be available at the time of collection and at any point thereafter. This general legislation is supplemented by specific rules set out in the "Directive on the processing of personal data and the protection of privacy in the electronic communications sector" (2002/58/EC). This requires companies to secure the prior consent of consumers before sending them marketing emails. The only exception to this opt-in provision is if the marketer has already obtained the intended recipient's contact details in the context of a previous sale and wishes to send them information on similar products and services.

Key Link: http://europa.eu.int/comm/justice_home/fsj/privacy/law/index_en.htm

Transferring Customer Data to Countries Outside the EU

The EU's general data protection Directive provides for the free flow of personal data within the EU but also for its protection when it leaves the region's borders. Personal data can only be transferred outside the EU if adequate protection is provided for it or if the unambiguous consent of the data subject is secured. The European Commission has decided that a handful of countries have regulatory frameworks in place that guarantee the adequate protection of data transferred to them – the United States is not one.

The Department of Commerce and the European Commission negotiated Safe Harbor to provide U.S. companies with a simple, streamlined means of complying with the adequacy requirement. It allows those U.S. companies that commit to a series of data protection principles (based on the Directive), and who publicly state that commitment by "self-certifying" on a dedicated website, to continue to receive personal data from the EU. Signing up is voluntary but the rules are binding on those who do. The ultimate means of enforcing Safe Harbor is that failure to fulfill the commitments will be actionable as an unfair and deceptive practice under Section 5 of the FTC Act or under a concurrent Department of Transportation statute for air carriers and ticket agents. While the United States as a whole does not enjoy an adequacy finding, companies that join up to the Safe Harbor scheme will.

EU based exporters or U.S. based importers of personal data can also satisfy the adequacy requirement by including data privacy clauses in the contracts they sign with each other. The Data Protection Authority in the EU country from where the data is being exported must approve these contracts. To fast track this procedure the European Commission has approved sets of model clauses for personal data transfers that can be inserted into contracts between data importers and exporters. The most recent were published at the beginning of 2005. Most transfers using contracts based on these model clauses do not require prior approval. Companies must bear in mind that the transfer of personal data to third countries is a processing operation that is subject to general data protection Directive regardless of any Safe Harbor, contractual or consent arrangements.

Key Links: <http://www.export.gov/safeharbor/>
http://europa.eu.int/comm/justice_home/fsj/privacy/modelcontracts/index_en.htm

Distance Selling Rules

- Distance and Door-to-Door sales

The EU's Directive on distance selling to consumers (97/7/EC) set out a number of obligations for companies doing business at a distance with consumers. It can read like a set of onerous "do's" and "don'ts," but in many ways it represents nothing more than a customer relations good practice guide with legal effect. Direct marketers must provide clear information on the identity of themselves as well as their supplier, full details on prices including delivery costs, and the period for which an offer remains valid – all of this, of course, before a contract is concluded. Customers generally have the right to return goods without any required explanation within seven days, and retain the right to compensation for faulty goods thereafter.

Similar in nature is the Doorstep Directive (85/577/EEC) which is designed to protect consumers from sales occurring outside of a normal business premises (e.g., door-to-door sales) and essentially assures the fairness of resulting contracts.

Key Link: http://europa.eu.int/comm/consumers/cons_int/safe_shop/index_en.htm

- Distance Selling of Financial Services

Financial services are the subject of a separate directive that came into force in June 2002 (2002/65/EC). This piece of legislation amends three prior existing directives and is designed to ensure that consumers are appropriately protected in respect to financial transactions taking place where the consumer and the provider are not face-to-face. In addition to prohibiting certain abusive marketing practices, the directive establishes criteria for the presentation of contract information. Given the special nature of financial markets, specifics are also laid out for contractual withdrawal.

Key Link: http://europa.eu.int/comm/consumers/cons_int/fina_serv/index_en.htm

Direct Marketing Over the Internet

The e-commerce Directive (2000/31/EC) imposes certain specific requirements connected to the direct marketing business. Promotional offers must not mislead customers and the terms that must be met to qualify for them have to be easily accessible and clear. The Directive stipulates that marketing e-mails must be identified as such to the recipient and requires that companies targeting customers on-line must regularly consult national opt-out registers where they exist. When an order is placed, the service provider must acknowledge receipt quickly and by electronic means, although the Directive does not attribute any legal effect to the placing of an order or its acknowledgment. This is a matter for national law. Vendors of electronically supplied services must also collect value added tax (VAT).

Key Link: http://europa.eu.int/comm/internal_market/en/ecommerce/index.htm

Joint Ventures/Licensing

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Selling to the Government

[Return to top](#)

The EU public procurement market, including EU institutions and Member States, totals around EUR 1,600 billion. This market is regulated by two Directives: Directive 2004/18 on Coordination of procedures for the award of public works, services and supplies contracts, and Directive 2004/17 on Coordination of procedures of entities operating in the Utilities sector, which covers the following sectors: water, energy, transport and postal services. Those directives are implemented in national procurement legislation of the 25 EU Member States. Currently, the Remedies directive, which covers legal means for companies who face discriminatory public procurement practices, is being updated.

Most EU tenders for public supplies are open to U.S. companies. However, there are restrictions for U.S. suppliers in the EU utilities sector both in the EU Utilities Directive and in the EU coverage of the Government Procurement Agreement (GPA). The Utilities Directive allows EU contracting authorities in these sectors to either reject non-EU bids where the proportion of goods originating in non-EU countries exceeds 50% of the total value of the goods constituting the tender, or are entitled to apply a 3% price difference to non-EU bids in order to give preference to the EU bid. These restrictions are applied when no reciprocal access for EU companies in the U.S. market is offered. Those restrictions however were waived for the electricity sector.

For more information, please see the U.S. Commercial Service at the U.S. Mission to the European Union website dedicated to procurement:

http://www.buyusa.gov/europeanunion/eu_funds.html. The site also has a database of all European public procurement tenders that are open to U.S.-based firms by virtue of the Government Procurement Agreement. The EU's website, <http://ted.publications.eu.int/official/>, offers access to EU public procurement announcements free of charge.

Distribution and Sales Channels

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Selling Factors/Techniques

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Electronic Commerce

[Return to top](#)

In July 2003 The European Union (EU) started applying Value Added Tax (VAT) to sales by non EU based companies of electronically supplied services to EU based non-business customers. U.S. Companies that are covered by the rule change must collect and submit VAT to EU tax authorities. European Council Directive 2002/38/EC changed the EU rules for charging Value Added Tax. (http://europa.eu.int/eur-lex/en/dat/2002/l_128/l_12820020515en00410044.pdf)

US Businesses mainly affected by this rule change are those that are U.S. based and selling ESS to EU based, non-business customers or those businesses that are EU based and selling ESS to customers outside the EU who no longer need to charge VAT on these transactions.

There are a number of compliance options for businesses. The Directive created a special scheme that simplifies registering with each member state. The directive allows companies to register with a single VAT authority of their choice. Companies have to charge different rates of VAT according to where their customers are based but VAT reports and returns are submitted to just one authority. The VAT authority responsible for providing the single point of registration service is then responsible for reallocating the collected revenue among the other EU VAT authorities.

Key Link: http://europa.eu.int/comm/taxation_customs/taxation/vat/how_vat_works/e-services/index_en.htm

Trade Promotion and Advertising

[Return to top](#)

- General Legislation

Laws against misleading advertisements differ widely from Member State to Member State within the EU. To respond to this imperfection in the Internal Market, the Commission adopted a Directive, in force since October 1986, to establish minimum and objective criteria regarding truth in advertising. The Directive was amended in October 1997 to include comparative advertising. Under the Directive, misleading advertising is defined as any "advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, by reason of its deceptive nature, is likely to affect their economic behavior or which for those reasons, injures or is likely to injure a competitor." Member States can authorize even more extensive protection under their national laws. Comparative advertising, subject to certain conditions, is defined as "advertising which explicitly or by implication identifies a competitor or goods or services by a competitor." Member States can, and in some cases have, restricted misleading or comparative advertising.

Following the adoption of the 1999 Council Directive on the Sale of Consumer Goods and Associated Guarantees, product specifications, as laid down in advertising, are now considered as legally binding on the seller. (For additional information on Council Directive 1999/44/EC on the Sale of Consumer Goods and Associated Guarantees, see the legal warranties and after-sales service section of 4.4, below.)

The EU adopted directive 2005/29/EC concerning fair business practices in a further attempt to tighten up consumer protection rules. These new rules would outlaw several aggressive or deceptive marketing practices such as pyramid schemes, "liquidation sales" when a shop is not closing down, and artificially high prices as the basis for discounts in addition to other potentially misleading advertising practices. The proposed legislation's stated objective is enhancing consumer confidence in the internal market through the harmonization of rules across the Member States and more cohesively tying together many of the various advertising and promotion regulations.

Key Link:

http://europa.eu.int/comm/consumers/cons_int/safe_shop/fair_bus_pract/index_en.htm

- Medicine

The advertising of medicinal products for human use is regulated by Council Directive 2001/83/EC. Generally speaking, the advertising of medicinal products is forbidden if market authorization has not yet been granted or if the product in question is a prescription drug. Mentioning therapeutic indications where self-medication is not suitable is not permitted, nor is the distribution of free samples to the general public. The text of the advertisement should be compatible with the characteristics listed on the product label, and should encourage rational use of the product. The advertising of medicinal products destined for professionals should contain essential characteristics of the product as well as its classification. Inducements to prescribe or supply a particular medicinal product are prohibited and the supply of free samples is restricted.

Key Link: [http://europa.eu.int/eur-](http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_311/l_31120011128en00670128.pdf)

[lex/pri/en/oj/dat/2001/l_311/l_31120011128en00670128.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_311/l_31120011128en00670128.pdf)

- Food

On July 16, 2003, the Commission adopted a proposal, which is close to adoption, for a regulation on nutrition and health claims made on foods (COM 2003/424) supplementing 2000/13/EC on the labeling, presentation and advertising of foodstuffs. The proposed regulation would set rules on the use of language such as "low fat" and "light," among others. The proposal seeks to harmonize the rules for making claims throughout the EU and establish what nutrition and health claims are allowable.

Key link:

http://europa.eu.int/comm/food/food/labellingnutrition/claims/index_en.htm

- Tobacco

In 2002, a law regulating tobacco advertising and related sponsorship replaced a directive that was annulled by a ruling of the European Court of Justice. Member States must comply with most of these requirements by 2005 while a ban on sponsorship of major international sporting events like Formula One auto racing will take effect a year later. Currently, tobacco companies are already banned from advertising and sponsoring programs on television in the European Union. Under the new rules, the companies will also be barred from the free distribution of tobacco products as a promotion. Tobacco companies may still advertise in cinemas, on billboards, posters or through indirect ads, such as on clothing.

Pricing

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Sales Service/Customer Support

[Return to top](#)

Conscious of the discrepancies among Member States in product labeling, language use, legal guarantee, and liability, the redress of which inevitably frustrates consumers in cross-border shopping, the EU institutions have launched a number of initiatives aimed at harmonizing national legislation. Suppliers within and outside the EU should be aware of existing and upcoming legislation affecting sales, service, and customer support.

- **Product Liability**

Under the 1985 Directive on liability of defective products, amended in 1999, the producer is liable for damage caused by a defect in his product. The victim must prove the existence of the defect and a causal link between defect and injury (bodily as well as material). A reduction of liability of the manufacturer is granted in cases of negligence on the part of the victim.

Key link:

http://europa.eu.int/comm/consumers/cons_safe/prod_safe/defect_prod/index_en.htm

- **Product Safety**

The 1992 General Product Safety Directive introduces a general safety requirement at EU level to ensure that manufacturers only place safe products on the market. It was revised in 2001 to include an obligation on the producer and distributor to notify the Commission in case of a problem with a given product, provisions for its recall, the creation of a European Product Safety Network, and a ban on exports of products to third countries which are not deemed safe in the EU.

Key link: http://europa.eu.int/comm/consumers/cons_safe/prod_safe/index_en.htm

- Legal Warranties and After-sales Service

Under the 1999 Directive on the Sale of Consumer Goods and Associated Guarantees, professional sellers are required to provide a minimum two-year warranty on all consumer goods sold to consumers (natural persons acting for purposes outside their trade, businesses or professions), as defined by the Directive. The remedies available to consumers in case of non-compliance are:

- repair of the good(s);
- replacement of the good(s);
- a price reduction; or
- rescission of the sales contract.

Key link:

http://europa.eu.int/comm/consumers/cons_int/safe_shop/guarantees/index_en.htm

Other issues pertaining to consumers' rights and protection, such as the New Approach Directives, CE marking, quality control and data protection are dealt with in Chapter 5 of this CCG.

Protecting Your Intellectual Property

[Return to top](#)

Copyright

The EU's legislative framework for copyright protection consists of a series of directives covering areas such as the legal protection of computer programs, the duration of protection of authors' rights and neighboring rights, and the legal protection of databases. Almost all Member States have fully implemented the rules into national law; and the Commission is now focusing on ensuring that the framework is enforced accurately and consistently across the EU.

The on-line copyright Directive (2001/29/EC) addresses the vexed problem of protecting rights holders in the online environment while protecting the interests of users, ISPs and hardware manufacturers. It guarantees authors' exclusive reproduction rights with a single mandatory exception for technical copies (to allow caching), and an exhaustive list of other exceptions that individual Member States can select and include in national legislation. This list is meant to reflect different cultural and legal traditions, and includes private copying "on condition right holders receive fair compensation."

Key Link: http://www.europa.eu.int/comm/internal_market/copyright/index_en.htm

Patents

EU countries have a "first to file" approach to patent applications, as compared to the "first to invent" system followed in the United States. This makes early filing a top priority for innovative companies. Unfortunately it is not yet possible to file for a single EU-wide patent that would be administered and enforced like the Community Trademark (see below). For the moment the most effective way for a company to secure a patent across a range of EU national markets is to use the services of the European Patent Office

(EPO) in Munich. It offers a one-stop-shop that enables rights holders to get a bundle of national patents using a single application. However these national patents have to be validated, maintained and litigated separately in each Member State. EPO's web site is <http://www.european-patent-office.org/>.

Key Link: http://www.europa.eu.int/comm/internal_market/indprop/index_en.htm

Trademarks

The EU-wide Community Trademark (CTM) can be obtained via a single language application to the Office of Harmonization in the Internal Market (OHIM) in Alicante, Spain. It lasts ten years and is renewable indefinitely. For companies looking to protect trademarks in three or more EU countries the CTM is a more cost effective option than registering separate national trademarks. On October 1, 2004, the EC acceded to the World Intellectual Property Organization (WIPO) Madrid Protocol. The accession of the EC to the Madrid Protocol establishes a link between the Madrid Protocol system, administered by WIPO, and the Community Trademark system, administered by OHIM. As of October 1, 2004, Community Trademark applicants and holders are allowed to apply for international protection of their trademarks through the filing of an international application under the Madrid Protocol. Conversely, holders of international registrations under the Madrid Protocol will be entitled to apply for protection of their trademarks under the Community Trademark system.

Key Links: <http://oami.eu.int/en/default.htm>
<http://www.wipo.int/madrid/en>

Designs

The EU adopted a Regulation introducing a single Community system for the protection of designs in December 2001. The Regulation provides for two types of design protection, directly applicable in each EU Member State: the registered Community design and the unregistered Community design. Under the registered Community design system, holders of eligible designs can use an inexpensive procedure to register them with the EU's Office for Harmonization in the Internal Market (OHIM), based in Alicante, Spain. They will then be granted exclusive rights to use the designs anywhere in the EU for up to twenty-five years. Unregistered Community designs that meet the Regulation's requirements are automatically protected for three years from the date of disclosure of the design to the public. Protection for any registered Community design was automatically extended to the 10 new EU Member States on May 1, 2004.

Key Links: <http://oami.eu.int/en/design/default.htm>

Trademark Exhaustion

Within the EU, the rights conferred on trademark holders are subject to the principle of "exhaustion." Exhaustion means that once trademark holders have placed their product on the market in one Member State, they lose the right to prevent the resale of that product in another EU country. This has led to an increase in the practice of so called "parallel importing" whereby goods bought in one Member State are sold in another by third parties unaffiliated to the manufacturer. This community wide exhaustion rule is

spelled out in the Directive on harmonizing trademark laws. In a report published in June 2000, the Commission indicated that it had no plans to propose extending this to exhausting trademark rights for goods sold for the first time outside the EU market.

Key Link:

http://www.europa.eu.int/comm/internal_market/en/indprop/tm/comexhaust.htm

Due Diligence

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Local Professional Services

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Web Resources

[Return to top](#)

<http://europa.eu.int/scadplus/leg/en/lvb/l23024.htm>

EC Directive on Commercial Agents

<http://europa.eu.int/scadplus/leg/en/lvb/l26061.htm>

Guidelines on "Vertical Agreements"

http://europa.eu.int/comm/enterprise/regulation/late_payments/

EC Directive on Late Payments

http://europa.eu.int/comm/internal_market/privacy/index_en.htm

EC on Data Protection

<http://www.export.gov/safeharbor/>

Safe Harbor Agreement

http://europa.eu.int/comm/justice_home/fsj/privacy/modelcontracts/index_en.htm

Model Contracts for the transfer of personal data

http://europa.eu.int/comm/consumers/cons_int/safe_shop/index_en.htm

Ensuring safe shopping across the EU

http://europa.eu.int/comm/consumers/cons_int/fina_serv/index_en.htm

Financial services

http://www.buyusa.gov/europeanunion/eu_tenders.html

European public procurement tenders open to U.S. companies

<http://ted.publications.eu.int/official/>

EU Tenders website

http://europa.eu.int/comm/internal_market/en/ecommerce/index.htm

Electronic commerce

http://europa.eu.int/comm/internal_market/comcom/docs/index_en.htm

EC Internal Markets official documents

http://europa.eu.int/comm/food/food/labellingnutrition/foodlabelling/index_en.htm

Food labeling

http://europa.eu.int/comm/consumers/cons_safe/prod_safe/defect_prod/index_en.htm

Liability for defective products

http://europa.eu.int/comm/consumers/cons_safe/prod_safe/index_en.htm

Safety of products

http://europa.eu.int/comm/consumers/cons_int/safe_shop/guarantees/index_en.htm

Sale of goods and guarantees

http://www.europa.eu.int/comm/internal_market/copyright/index_en.htm

Copyright and Neighboring Rights

<http://www.european-patent-office.org/>

European Patent Office

http://www.europa.eu.int/comm/internal_market/indprop/index_en.htm

Industrial property

<http://oami.eu.int/en/default.htm>

Office for Harmonization in the Internal Market (OHIM)

<http://www.wipo.int/madrid/en>

WIPO Madrid System

<http://oami.eu.int/en/design/default.htm>

OHIM Community Design

http://www.europa.eu.int/comm/internal_market/en/indprop/tm/comexhaust.htm

Exhaustion of trade mark rights

[Return to table of contents](#)

Chapter 4: Leading Sectors for U.S. Export and Investment

- [Commercial Sectors](#)
- [Agricultural Sectors](#)

Commercial Sectors

[Return to top](#)

Generally speaking, the overall market of the European Union is a differentiated one, with each Member State market having supply, distribution, demand, cultural and legal characteristics that merit individual attention. Thus, while a pan-European business strategy, as outlined in the Commerce Department's Showcase Europe initiative, is a must, specific tactics for market entry or expansion should be considered for each country. Readers should consult the Country Commercial Guides produced by U.S. embassies in the 25 Member States of the EU for information about export "Best Prospects," the investment climate, and other economic, political and commercial information for the country or countries of interest. These CCG's can be found at the following website:

<http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Overall, U.S. companies generally find their best prospects in the EU at the upper-end of the technology scale. U.S. goods are well regarded and demand is driven more by quality and performance than by price. The EU offers particularly good opportunities for U.S. suppliers of goods and services in eight Showcase Europe strategic sectors (listed alphabetically): aerospace and defense, automotive, energy, environmental, information & communications technologies, medical & pharmaceutical, safety & security and travel & tourism. To access Country Commercial Guides and market information on specific industry sectors, please visit <http://www.export.gov/OneStopConsumer/OneStop/mrlogin.jsp>.

Showcase Europe provides U.S. exporters a broader perspective on Europe. Organized around eight key [sectors](#), Showcase Europe provides a framework for coordination and cooperation among the U.S. Department of Commerce's U.S. Commercial Service Offices throughout Europe.

For more information on the Showcase Europe Program, please visit:

<http://www.buyusa.gov/europe>.

[Return to table of contents](#)

Despite frequent disputes, bilateral agricultural trade between the United States and the EU-25 totaled nearly \$24.5 billion in FY 2005. The EU is the fourth largest export market for U.S. agricultural products after Canada, Mexico, and Japan. For the sixth year in a row, the agricultural trade balance continued in the EU's favor (\$15.7 billion vs. \$8.9 billion). U.S. demand for European wine, beer, cheese, olive oil, essential oils and other processed products was again strong. U.S. exports in FY 2005 were up 4 percent from year-ago levels, reflecting increased demand for tree nuts, seafood, and soybeans. The main U.S. products imported by the EU in value are tree nuts, soybeans, seafood, tobacco, wine and beer, and animal feed. Consistent with the global trend, the overall market for high-value consumer-oriented food products is the most promising growth area, with U.S. exports of these products to the EU reaching \$3.2 billion in FY 2005, up 12 percent from FY 2004.

Global branding and further integration of European markets is producing a more homogeneous food and drink market in Europe, but important national differences in consumption remain. Nevertheless, certain common trends are evident throughout the EU: demand for greater convenience, more openness to nontraditional foods, and a growing interest in health foods, organics and other niche markets. For a thorough analysis of what commodities and products offer the best opportunities, access <http://www.useu.be/agri/fairs.html> and consult the individual Member States' exporter guides.

[Return to table of contents](#)

Chapter 5: Trade Regulations and Standards

- [Import Tariffs](#)
- [Trade Barriers](#)
- [Import Requirements and Documentation](#)
- [U.S. Export Controls](#)
- [Temporary Entry](#)
- [Labeling and Marking Requirements](#)
- [Prohibited and Restricted Imports](#)
- [Customs Regulations and Contact Information](#)
- [Standards](#)
- [Trade Agreements](#)
- [Web Resources](#)

Import Tariffs

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Trade Barriers

[Return to top](#)

For information on trade barriers, please see the National Trade Estimate Report on Foreign Trade Barriers, published by USTR and available through the following website: <http://www.ustr.gov/> or <http://www.useu.be/>. Information on agricultural trade barriers can be found at the following website: <http://www.useu.be/agri/usda.html>.

Import Requirements and Documentation

[Return to top](#)

Import Licenses

The Integrated Tariff of the Community, referred to as TARIC (acronym for "Tarif Intégré de la Communauté"), is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a license is required for a particular product, check column five of the TARIC.

In addition, many EU Member States maintain a list of goods subject to import licensing. For example, Germany's "Import List" (Einfuhrliste) includes goods for which licenses are required, their code numbers, any applicable restrictions, and the agency that will issue the relevant license. The Import List also indicates whether the license is required under German or EU law. For information relevant to Member State import licenses, please consult the relevant Member State Country Commercial Guide.

The TARIC can be searched by country of origin, Harmonized System Code, and product description on the interactive website of the Directorate-General for Taxation and the Customs Union. The TARIC is updated annually in April.

Key Link:

http://europa.eu.int/comm/taxation_customs/common/databases/taric/index_en.htm

Import Documentation

Non-agricultural Documentation

The official model for written declarations to customs under "Normal Procedure" is the Single Administrative Document (SAD). Other forms may be used for this purpose. Information on import/export forms is contained in Title VII, of Council Regulation (EEC) No. 2454/93 of July 2, 1993, which lays down provisions for the implementation of Council Regulation (EEC) No. 2913/92 establishing the Community Customs Code (Articles 205 through 221). Articles 222 through 224 provide for computerized customs declarations and Articles 225 through 229 provide for oral declarations.

Additional information on import/export documentation can be found in Title III, of Council Regulation (EEC) No. 2913/92 of October 12, 1992, establishing the Community Customs Code (Articles 37 through 57).

Goods brought into the customs territory of the Community are, from the time of their entry, subject to customs supervision until customs formalities are completed.

Goods presented to customs are covered by a summary declaration, which is lodged once the goods have been presented to customs. The customs authorities may, however, allow a period for lodging the declaration, which cannot be extended beyond the first working day following the day on which the goods are presented to customs. The summary declaration can be made on a form corresponding to the model prescribed by the customs authorities. However, the customs authorities may permit the use, as a summary declaration, of any commercial or official document which contains the particulars necessary for identification of the goods. The summary declaration may also be in computerized form.

The summary declaration is to be lodged by:

- the person who brought the goods into the customs territory of the Community or by any person who assumes responsibility for carriage of the goods following such entry; or
- the person in whose name the person referred to above acted.

Non-EU goods presented to customs must be assigned a customs-approved treatment or use authorized for such non-Community goods. Where goods are covered by a summary declaration, the formalities for them to be assigned a customs-approved treatment or use must be carried out:

- 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;

- 20 days from the date on which the summary declaration is lodged in the case of goods carried other than by sea.

Where circumstances so warrant, the customs authorities may set a shorter period or authorize an extension of the period.

Agricultural Documentation

Phytosanitary Certificates: Phytosanitary certificates are required for most fresh fruits, vegetables, and other plant materials.

Sanitary Certificates: For commodities composed of animal products or by-products, EU countries require that shipments be accompanied by a certificate issued by the competent authority of the exporting country. This applies regardless of whether the product is for human consumption, for pharmaceutical use, or strictly for non-human use (e.g., veterinary biologicals, animal feeds, fertilizers, research). Many of these certificates are uniform throughout the EU, but the harmonization process has not been finalized yet. During this transition period, certain Member State import requirements continue to apply. Up-to-date information on harmonized import requirements can be found at the following website: <http://www.useu.be/agri/certification.html>.

Sanitary Certificates (Fisheries): Since March 2001, the EU imposes new health certificates for seafood requiring the distinction between fishery and aquaculture products (Commission Decision 2001/67/EC). One of the objectives of these certificates in terms of risk assessment is to measure the rate of heavy metal within fish products (aquaculture products in particular) in order to comply with new safety standards. Sanitary certificates for shellfish are covered by another EU Regulation (Commission Decision 1996/333/EC) and have to be used for gastropods, bivalve mollusks, tunicates and echinoderms. The two competent Authorities for issuing sanitary certificates are the FDA and the U.S. Department of Commerce National Marine Fisheries Service (NMFS/USDC).

The recognition of the veterinary equivalency between the EU and the U.S. seafood inspection system will require the creation of a new specific public health certificate for fishery and aquaculture products coming from the U.S. As of January 1, 2006 this new certificate has not yet been published and will not enter into force before the end of February 2006. For further information on this new certificate please contact the NOAA Fisheries office at USEU.

Since May 1, 2004, aquaculture products coming from the United States are subject to two new regulations (2003/804/EC and 2003/858/EC). Shipments of aquaculture live bivalve mollusks and finfish must be accompanied by an animal health certificate in addition to public health certificate. This animal health certificate is not required in the case of live bivalve mollusks intended for immediate human consumption. For further information, please contact the NOAA Fisheries office at the U.S. Mission to the EU.

A new EU Hygiene Legislation is in force since January 1, 2006. This new set of Regulations aims at simplifying existing rules and at guaranteeing safer food.

To facilitate the implementation of the revised rules, the Commission recently published implementing measures and transitional arrangements that are also effective as of January 1, 2006. These guidelines can be found below:

- [Commission Regulation 2073/2005](#)
- [Commission Regulation 2074/2005](#)
- [Commission Regulation 2076/2005](#)

For any other detailed information on import documentation for seafood, please see the following web sites: <http://www.nmfs.noaa.gov/ocs/tradecommercial> or <http://www.cfsan.fda.gov/>.

U.S. Export Controls

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Temporary Entry

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Labeling and Marking Requirements

[Return to top](#)

In addition to the above labeling and marking requirements, manufacturers and distributors should be aware of specific requirements regarding the labeling and traceability of foodstuffs, including seafood, which are covered by four EU regulations:

- Regulation 178/2002/EC
- Directive 2000/13/EC, last amended by Directive 2003/89/EC regards indication of allergens present in foodstuffs
- Commission Directive 2005/26/EC
- Council Regulation 104/2000/EC (seafood)
- Commission Regulation 2065/2001/EC (seafood, only for retail channels)

Prohibited and Restricted Imports

[Return to top](#)

The TARIC is designed to show various rules applying to specific products being imported into the customs territory of the EU or, in some cases, when exported from it. To determine if a product is prohibited or subject to restriction, check column five of the TARIC for that product for the following codes:

CITES Convention on International Trade of Endangered Species

PROHI Import Suspension

RSTR Import Restriction

For information on how to access the TARIC, see the Import Requirements and Documentation Section above.

Key Link:

http://europa.eu.int/comm/taxation_customs/common/databases/taric/index_en.htm

Customs Regulations and Contact Information

[Return to top](#)

Tariffs and Import Taxes: Information on customs valuation is contained in Title II, Chapter Three, of Council Regulation (EEC) 2913/92, establishing the Community Customs Code, titled, "Value of Goods for Customs Purposes" (Articles 28 through 36). The primary basis for determining customs value set out in Articles 29 is:

"... the transaction value, that is, the price actually paid or payable for the goods when sold for export to the customs territory of the Community..."

Article 29 lists the following conditions, which must be met in determining customs value:

- There are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which are imposed or required by a law or by the public authorities in the community, limit the geographical area in which the goods may be resold, or do not substantially affect the value of the goods;
- The sale or price is not subject to some conditional consideration for which a value cannot be determined with respect to the goods being valued;
- No part of the proceeds of any subsequent resale disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Article 32; and
- The buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes.

The "price actually paid or payable" in Article 29 refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Articles 32 and 33 provide for adjustments to the value for customs purposes. Article 32 lists charges that are added to the customs value, such as, commissions and brokerage, costs of containers, packing, royalties and license fees, and the value of goods and services supplied directly or indirectly by the buyer in connection with the production and sale for export of the imported goods. Article 33 lists charges that are not included in the customs value, such as, charges for transport, charges incurred after importation, charges for interest under a financing arrangement for the purchase of the goods,

charges for the right to reproduce imported goods in the Community, and buying commissions.

Effective July 1, 1995, the Commission amended Article 147(1) of Regulation 2454/93 of the Customs Code which affects valuation in the case of successive sales. This amendment "defaults" valuation to the last sale, but allows the value of an earlier sale if it can be demonstrated that such a sale took place for export to the EU. The evidentiary requirements to support the bona fides of any earlier sales will be based upon commercial documents such as purchase orders, sales contracts, commercial invoices, and shipping documents.

Key Link: http://europa.eu.int/comm/taxation_customs/customs/index_en.htm

For customs contact information, please refer to Chapter 9.

Standards

[Return to top](#)

- [Overview](#)
- [Standards Organizations](#)
- [Conformity Assessment](#)
- [Product Certification](#)
- [Accreditation](#)
- [Publication of Technical Regulations](#)
- [Labeling and Marking](#)

Overview

[Return to top](#)

Products tested and certified in the United States to American standards are likely to have to be retested and re-certified to EU requirements as a result of the EU's different approach to the protection of the health and safety of consumers and the environment. Where products are not regulated by specific EU technical legislation, they are always subject to the EU's General Product Safety Directive as well as to possible additional national requirements.

European Union standards created in recent years under the New Approach are harmonized across the 25 EU Member States and European Economic Area countries to allow for the free flow of goods. A feature of the New Approach is CE marking. While harmonization of EU legislation can facilitate access to the EU Single Market, manufacturers should be aware that regulations and technical standards might also become barriers to trade if U.S. standards are different from those of the European Union.

Agricultural Standards

The establishment of harmonized EU rules and standards in the food sector has been ongoing for several decades, but it took until January 2002 for the publication of a general food law establishing the general principles of EU food law. This regulation introduced mandatory traceability throughout the feed and food chain as of Jan 1, 2005. For specific information on agricultural standards, please refer to the Foreign Agricultural Service's website at: <http://www.useu.be/agri/usda.html>.

EU standards setting is a process based on consensus initiated by industry or mandated by the European Commission and carried out by independent standards bodies, acting at the national, European or international level. There is strong encouragement for non-governmental organizations, such as environmental and consumer groups, to actively participate in European standardization.

Many standards in the EU are adopted from international standards bodies such as the International Standards Organization (ISO). The drafting of specific EU standards is handled by three European standards organizations:

- CENELEC, European Committee for Electrotechnical Standardization (<http://www.cenelec.org/>)
- ETSI, European Telecommunications Standards Institute (<http://www.etsi.org/>)
- CEN, European Committee for Standardization, handling all other standards (<http://www.cenorm.be/>)

Standards are created or modified by experts in Technical Committees or Working Groups. The members of CEN and CENELEC are the national standards bodies of the Member States, which have "mirror committees" that monitor and participate in ongoing European standardization. CEN and CENELEC standards are sold by the individual Member States standards bodies as well as through the American National Standards Institute (ANSI) <http://www.ansi.org/>. ETSI is different in that it allows direct participation in its technical committees from non-EU companies that have interests in Europe and gives away its individual standards at no charge on its website. In addition to the three standards developing organizations, the European Commission plays an important role in standardization through its funding of the participation in the standardization process of small- and medium-sized companies and non-governmental organizations, such as environmental and consumer groups. The Commission also provides money to the standards bodies when it mandates standards development to the European Standards Organization for harmonized standards that will be linked to EU technical regulations. All EU harmonized standards, which provide the basis for CE marking, can be found on <http://www.newapproach.org/>.

Due to the EU's vigorous promotion of its regulatory and standards system as well as its generous funding for its business development, the EU's standards regime is wide and deep - extending well beyond the EU's political borders to include affiliate members (countries which are hopeful of becoming full members in the future) such as Albania, Bulgaria, Croatia, FYR of Macedonia, and Turkey. Another category, called "partner standardization bodies" includes the standards organizations of Bosnia and Herzegovina, Egypt, Serbia and Montenegro, Russia, Tunisia and the Ukraine, which are not likely to join the EU or CEN any time soon, but have an interest in participating in specific CEN technical committees. They agree to pay a fee for full participation in certain technical committees and agree to implement the committee's adopted standards as national standards. Many other countries are targets of the EU's technical assistance program, which is aimed at exporting EU standards and technical regulations to

developing countries such as the Mediterranean and Balkan countries, some Latin American countries, China, and Russia.

To know what CEN and CENELEC have in the pipeline for future standardization, it is best to visit their websites. CEN's "business domain" page provides an overview by sector and/or technical committee whereas CENELEC offers the possibility to search its database. ETSI's portal (http://portal.etsi.org/Portal_Common/home.asp) leads to ongoing activities.

With the need to adapt more quickly to market needs, European standards organizations have been looking for "new deliverables" which are standard-like products delivered in a shorter timeframe. While few of these "new deliverables" have been linked to EU regulations, expectations are that they will eventually serve as the basis for EU-wide standards.

Key Link: <http://www.cenorm.be/cenorm/workarea/sectorfora/index.asp>.

Conformity Assessment

[Return to top](#)

Conformity Assessment is a mandatory step for the manufacturer in the process of complying with specific EU legislation. The purpose of conformity assessment is to ensure consistency of compliance during all stages of the production process to facilitate acceptance of the final product. EU product legislation gives manufacturers some choice with regard to conformity assessment, depending on the level of risk involved in the use of their product. These range from self-certification, type examination and production quality control system, to full quality assurance system. You can find conformity assessment bodies in individual Member State country in this list by the European Commission.

Key Link: <http://europa.eu.int/comm/enterprise/nando-is/home/index.cfm>.

To promote market acceptance of the final product, there are a number of voluntary conformity assessment programs. CEN's certification systems are the Keymark, the CENCER mark, and the European Standard Agreement Group. CENELEC has its own initiative. ETSI does not offer conformity assessment services.

Product Certification

[Return to top](#)

To sell products on the EU market of 25 Member States as well as Norway, Liechtenstein and Iceland, U.S. exporters are required to apply CE marking whenever their product is covered by specific product legislation. CE marking product legislation offers manufacturers a number of choices and requires decisions to determine which safety/health concerns need to be addressed, which conformity assessment module is best suited to the manufacturing process, and whether or not to use EU-wide harmonized standards. There is no easy way for U.S. exporters to understand and go through the process of CE marking, but hopefully this section provides some background and clarification.

In the eighties, the New Approach was launched to overcome the lengthy adoption process of "old approach" type legislation. The goal of the EU's harmonization program

under the New Approach is to streamline technical harmonization and the development of standards for certain product groups, including, among others, machinery, toys, construction products, electromagnetic compatibility, personal protective equipment, non-automatic weighing instruments, medical devices, gas appliances, hot water boilers, and radio and telecommunications terminal equipment (RTTE). Under the New Approach, directives cover essential safety, health and environmental requirements. The three regional European standards organizations, CEN, CENELEC and ETSI, are mandated by the Commission to develop technical standards that are consistent with the essential requirements of EU directives.

Products manufactured to standards adopted by CEN, CENELEC and ETSI, and published in the Official Journal as harmonized standards, are presumed to conform to the requirements of EU directives. The manufacturer then applies the CE mark and issues a declaration of conformity. With these, the product will be allowed to circulate freely within the EU. A manufacturer can choose not to use the harmonized EU standards, but then must demonstrate that the product meets the essential safety and performance requirements. Trade barriers occur when design, rather than performance, standards are developed by the relevant European standardization organization, and when U.S. companies do not have access to the standardization process through a European presence.

The CE mark addresses itself primarily to the national control authorities of the Member States, and its use simplifies the task of essential market surveillance of regulated products. Although CE marking is intended primarily for inspection purposes by Member State inspectors, the consumer may well perceive it as a quality mark.

The CE mark is not intended to include detailed technical information on the product, but there must be enough information to enable the inspector to trace the product back to the manufacturer or the authorized representative established in the EU. This detailed information should not appear next to the CE mark, but rather on the declaration of conformity, the certificate of conformity (which the manufacturer or authorized agent must be able to provide at any time, together with the product's technical file), or the documents accompanying the product.

Accreditation

[Return to top](#)

Independent certification bodies, known as notified bodies, have been officially accredited by competent authorities to test and certify to EU requirements. However, under U.S.-EU Mutual Recognition Agreements (MRAs), notified bodies based in the United States and referred to as conformity assessment bodies, are allowed to test in the United States to EU specifications, and vice versa. The costs are significantly lower which results in U.S. products becoming more competitive. At this time, the U.S.-EU MRAs cover the following sectors: EMC (in force), RTTE (in force), medical devices (in transition), pharmaceutical (on hold), recreational craft (in force) and marine equipment (in force). The U.S. Department of Commerce, National Institute of Standards and Technology (NIST), has a link on its website to American and European Conformity Assessment bodies operating under a mutual recognition agreement.

Key Link: <http://ts.nist.gov/ts/htdocs/210/qsig/mra.htm>.

Accreditation is handled at Member State level. "European Accreditation" (<http://www.european-accreditation.org/>) is an organization representing nationally recognized accreditation bodies. Membership is open to nationally recognized accreditation bodies in countries in the European geographical area that can demonstrate that they operate an accreditation system compatible with EN45003 or ISO/IEC Guide 58.

Publication of Technical Regulations

[Return to top](#)

The Official Journal is the official gazette of the European Union. It is published daily and consists of two series covering draft and adopted legislation as well as case law, questions from the European Parliament, studies by committees, and more (<http://europa.eu.int/eur-lex/en/index.html>). It lists the standards reference numbers linked to legislation (<http://www.newapproach.org/Directives/DirectiveList.asp>). National technical regulations are published on the Commission's website <http://europa.eu.int/comm/enterprise/tris/> to allow other countries and interested parties to comment.

Member countries of the World Trade Organization (WTO) are required under the Agreement on Technical Barriers to Trade (TBT Agreement) to report to the WTO all proposed technical regulations that could affect trade with other member countries. **Notify Us** is a free, web-based e-mail subscription service that offers an opportunity to review and comment on proposed foreign technical regulations that can affect your access to international markets. Register online at Internet URL: <http://www.nist.gov/notifyus>.

Labeling and Marking

[Return to top](#)

Manufacturers should be mindful that, in addition to the EU's mandatory and voluntary schemes, national voluntary labeling schemes might still apply. These schemes may be highly appreciated by consumers, and thus, become unavoidable for marketing purposes.

Manufacturers are advised to take note that all labels require metric units although dual labeling is also acceptable until end of December 2009. The use of language on labels has been the subject of a Commission Communication, which encourages multilingual information, while preserving the right of Member States to require the use of language of the country of consumption.

The EU has mandated that certain products be sold in standardized quantities. Council Directive 80/232/EC provides permissible ranges of nominal quantities, container capacities and volumes for a variety of products.

Key Link: http://europa.eu.int/eur-lex/en/consleg/main/1980/en_1980L0232_index.html

The Eco-label

EU legislation in 1992, revised in 2000, distinguishes environmentally friendly production through a voluntary labeling scheme called the Eco-label. The symbol, a green flower, is a voluntary mark. The Eco-label is awarded to producers who can show that their

product is less harmful to the environment than such similar products. This “green label” also aims to encourage consumers to buy green products. However, the scheme does not establish ecological standards that all manufacturers are required to meet to place product on the market. Products without the EU Eco-label can still enter the EU as long as they meet the existing health, safety, and environmental standards and regulations.

There are concerns in the United States that the EU Eco-labeling program may become a de facto trade barrier; may not enhance environmental protection in a transparent, scientifically sound manner; may not be open to meaningful participation by U.S. firms; and may discriminate unfairly against U.S. business. The EU Eco-label is a costly scheme (up to EUR 1,300 for registration and up to EUR 25,000/ year for the use of the label, with a reduction of 25 percent for SMEs) and has therefore not been widely used so far. However, the Eco-label can be a good marketing tool and, given the growing demand for green products in Europe, it is likely that the Eco-label will become more and more a reference for green consumers.

Key Links: http://europa.eu.int/comm/environment/ecolabel/index_en.htm
<http://www.eco-label.com/>.

In June 2005, the European Commission tabled a [Communication](#) designed to launch a debate on the best way ahead regarding the eco-labeling of fisheries products. This initiative follows the growing interest by environmental Non-Governmental Organizations and increased public interest in food products associated with considerations related to environmental sustainability. A number of eco-labeling schemes have already been established with regard to fisheries products and other initiatives are being developed. It is not always easy to establish how reliable some eco-labeling claims are. International guidelines on eco-labeling have recently been adopted by the [Food and Agriculture Organisation \(FAO\)](#) and discussions on these issues and their potential effects on free trade areas are progressing in other international fora such as the [World Trade Organization \(WTO\)](#).

Companies selling a broad range of electrical goods in Europe are now required to comply with the Waste Electrical and Electronic Equipment Directive (WEEE) and by July 2006 will also need to conform to the Restriction of Use of certain Hazardous Substances Directive (RoHS). One of the requirements is that electrical goods be marked so that consumers do not put them in with municipal waste. For details on WEEE requirements and implementation, please see the following website:
<http://www.buyusa.gov/europeanunion/weee.html>.

Trade Agreements

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Web Resources

[Return to top](#)

<http://www.ustr.gov/>

Office of the U.S. Trade Representative

<http://www.useu.be/>

U.S. Mission to the EU (USEU) website

<http://www.useu.be/agri/usda.html>

Foreign Agricultural Service website, USEU

<http://www.ams.usda.gov/lsg/arc/audit.htm>

USDA Audit, Review & Compliance

<http://europa.eu.int/scadplus/leg/en/lvb/f81001.htm>

EC Regulation on animal by-products

http://europa.eu.int/comm/taxation_customs/common/databases/taric/index_en.htm

EC's TARIC – online customs tariff database

<http://www.useu.be/agri/certification.html>

EC Certification of Animal Products

<http://www.nmfs.noaa.gov/ocs/tradecommercial>

National Marine Fisheries Service's Trade & Commercial Services website

<http://www.cfsan.fda.gov/>

USDA Center for Food Safety and Applied Nutrition

http://europa.eu.int/comm/taxation_customs/customs/index_en.htm

EC Taxation and Customs Union

<http://www.useu.be/agri/estab.html>

EU-approved U.S. Establishments

<http://www.useu.be/agri/Fruit-Veg.html>

EU Marketing Standards for Fruits & Vegetables

<http://www.ams.usda.gov/lsg/arc/nhtc.htm>

Non-Hormone Treated Cattle (NHTC) Program

<http://www.useu.be/agri/organic.html>

Organic Foods Legislation

<http://www.cenelec.org/>

CENELEC, European Committee for Electrotechnical Standardization

<http://www.etsi.org/>

ETSI, European Telecommunications Standards Institute

<http://www.cenorm.be/>

CEN, European Committee for Standardization

<http://www.ansi.org/>

ANSI, American National Standards Institute

<http://www.newapproach.org/>

New Approach Standardization in the Internal Market

http://portal.etsi.org/Portal_Common/home.asp

ETSI's e-Standardization portal

<http://www.cenorm.be/cenorm/workarea/sectorfora/index.asp>

Advisory and coordinating bodies to CEN

<http://europa.eu.int/comm/enterprise/nando-is/home/index.cfm>

Conformity assessment bodies in the EU and member states

<http://ts.nist.gov/ts/htdocs/210/gsig/mra.htm>

Government-to-Government Mutual Recognition Agreement Information

<http://www.european-accreditation.org/>

European co-operation for Accreditation

<http://europa.eu.int/eur-lex/en/index.html>

European Union law portal

<http://www.newapproach.org/Directives/DirectiveList.asp>

List of EU Directives and Standards

<http://europa.eu.int/comm/enterprise/tris/>

EC Technical Regulations Information System

http://europa.eu.int/eur-lex/en/consleg/main/1980/en_1980L0232_index.html

EC Directive on packaging

http://europa.eu.int/comm/environment/ecolabel/index_en.htm

EU Eco-label Homepage

<http://www.eco-label.com/>

European Eco-label Catalogue

[Return to table of contents](#)

Chapter 6: Investment Climate

- [Openness to Foreign Investment](#)
- [Conversion and Transfer Policies](#)
- [Expropriation and Compensation](#)
- [Dispute Settlement](#)
- [Performance Requirements and Incentives](#)
- [Right to Private Ownership and Establishment](#)
- [Protection of Property Rights](#)
- [Transparency of Regulatory System](#)
- [Efficient Capital Markets and Portfolio Investment](#)
- [Political Violence](#)
- [Corruption](#)
- [Bilateral Investment Agreements](#)
- [OPIC and Other Investment Insurance Programs](#)
- [Labor](#)
- [Foreign-Trade Zones/Free Ports](#)
- [Foreign Direct Investment Statistics](#)
- [Web Resources](#)

Openness to Foreign Investment

[Return to top](#)

EU Treaty Provisions Governing Investment: Historical Background:

The European Union has perhaps one of the most hospitable climates for U.S. investment in the world. This reflects, in part, the process of European integration. One of the most remarkable, if least noted, aspects of the 1957 Treaty of Rome (now known as the EU Treaty) which established the European Community (now Union) is that it created a near-perfect investment treaty among the countries which form the EU. Under EU Treaty Article 43, EU Member States must permit investors from other Member States to establish and conduct business on a national treatment basis. Investors have the right to transfer capital and earnings freely, and are guaranteed national treatment on expropriation. Finally, any violation of these rights can be adjudicated by the European Court of Justice, which may hear cases related to violations of treaty rights directly, or overturn national court decisions found inconsistent with the treaty. This was a remarkable achievement, given that the six original signatories to the treaty had been at war with one another a decade previously.

The 1986 Single European Act further reduced barriers to intra-EU investment, and even created opportunities for companies from one Member State to receive better than national treatment in another. This is most obviously the case in the financial services sector, where, for example, German universal banks can conduct securities business freely in other Member States, even if local banks are not allowed by their licensing authority to do so.

Prior to the 1992 Treaty on European Union, the Community itself had virtually no role in determining the conditions which would affect the entry of investors from third countries into the territories of the Member States. While the Member States were compelled by the Treaty to grant national treatment to investors from other EU countries, they could erect and maintain barriers to investors from non-EU countries, consistent with their international obligations. (Note: the latter include the Treaties of Friendship, Commerce and Navigation (FCNs) which the United States has with most EU countries, as well as obligations under the OECD codes on capital movements and invisible transactions.) The only role Community law played was to ensure that a foreign-owned company that was established in one Member State received non-discriminatory treatment in other Member States, as mandated under Article 43 of the EU Treaty.

The EU's ability to regulate Member State treatment of incoming foreign investment increased considerably in 1993 when an EU Treaty revision abolished all restrictions on the movement of capital (including direct investment operations), both between EU Member States and between Member States and third countries (Article 56). However, EU Member State measures in force on December 31, 1993 denying national treatment to third-country investors were grandfathered. The treaty (Article 57) now expressly provides for the adoption of common regimes in these areas: "The Council may, acting by a qualified majority on a proposal from the Commission, adopt measures on the movement of capital to or from third countries involving direct investment establishment, the provision of financial services or the admission of securities to capital markets". Unanimity voting is required for such measures.

In June 1997, the European Commission issued an interpretative Communication clarifying the scope of EU Treaty provisions on capital movements and the right of establishment. It took this initiative because certain Member States had imposed limits on the number of voting shares that investors from other Member States could acquire in privatization operations. The Communication stresses that free movement of capital and freedom of establishment constitute fundamental and directly applicable freedoms established by the EU Treaty. Nationals of other Member States should, therefore, be free to acquire controlling stakes, exercise the voting rights attached to these stakes and manage domestic companies under the same conditions laid down in a Member State for its own nationals.

More recently, in January 2006 the Commission put forth a proposal to strengthen investor voting rights across borders. The aim is to bolster cross-border investment, by abolishing current shareholder voting impediments still prevalent in several member states, such as the ability to vote electronically or by proxy. The measure still needs member state and European Parliament approval and is expected to be in force at the end of 2007.

Ownership Restrictions and Reciprocity Provisions:

EU Treaty Articles 43 (establishment) and 56/57 (capital movements) have helped the EU to achieve one of the most hospitable climates for U.S. investment in the world. However, restrictions on foreign direct investment do exist and others have been proposed.

Under EU law the right to provide aviation transport services within the EU is reserved to firms majority-owned and controlled by EU nationals. The right to provide maritime transport services within certain EU Member States is also restricted.

Currently EU banking, insurance and investment services directives include "reciprocal" national treatment clauses, under which financial services firms from a third country may be denied the right to establish a new business in the EU if the EU determines that the investor's home country denies national treatment to EU service providers. However, U.S. firms' right to national treatment in this area was reinforced by the EU's GATS commitments.

After years of discussion, in March 2004, the Council of Ministers finally agreed on a directive on takeover bids, which should enter into force on May 20, 2006. The original proposal intended to ban all national legislation, allowing companies to employ defensive measures (e.g. "poison pills" or multiple voting rights) against hostile takeovers. The final compromise makes it optional for Member States and companies to apply a regime that rules out these defensive measures. It also included a "reciprocity" provision to allow companies that otherwise prohibit defensive measures to sue them if the potential suitor operates in a jurisdiction that permits takeover defenses. Article 12.3 of the final text is ambiguous as to whether the reciprocity principle would apply to non-EU firms, although the preamble of the legislation states that the application of the optional measures is without prejudice to international agreements to which the EC is a party. France has already indicated its intention of applying reciprocity to third countries, and some other member states appear to be leaning in the same direction.

The U.S. and the EU continue to discuss the EU's evolving role with respect to foreign investment and the developments noted above in the OECD, the WTO and elsewhere.

Conversion and Transfer Policies

[Return to top](#)

Europe's single currency, the euro, and remaining national EU Member State currencies are freely convertible; and the EU, like the United States, places virtually no restrictions on capital movements. Indeed, Article 56 of the EU Treaty specifically prohibits restrictions on the movement of capital and payments between Member States and between Member States and third countries, with the grandfathered exceptions, noted above. The adoption of the euro in 12 of the 25 EU Member States (Denmark, Sweden the United Kingdom and the ten new Member States continue to use their national currencies) has shifted currency management to the European Central Bank (ECB) and the EU Council of Ministers. As a result of this move, the Treaty provides for adoption of EU-wide exchange controls, on approval by a qualified majority of the Council.

Expropriation and Compensation

[Return to top](#)

The European Union does not have the right to expropriate property; this remains the exclusive competence of the Member States.

Dispute Settlement

[Return to top](#)

Foreign investors can, and do, take disputes against Member State governments directly to local courts. In addition, any violation of a right guaranteed under the EU law - which

has been ruled supreme to Member State law, including constitutional law - can be heard in local courts or addressed directly by a foreign investor with a presence in a Member State to the European Court of Justice. Further, all EU Member States are members of the World Bank's International Center for the Settlement of Investment Disputes (ICSID), and most have consented to ICSID arbitration of investment disputes in the context of individual bilateral investment treaties. While the EU is not itself a party to ICSID or other such arbitration conventions, it has stated its willingness to have investment disputes subject to international arbitration.

Performance Requirements and Incentives

[Return to top](#)

With implementation of Economic and Monetary Union on January 1, 1999, political interest in a coordinated tax policy has grown, and tax incentives as a means of competing for investment are under increasing scrutiny. European Union grant and subsidy programs are generally available only for nationals and companies in the EU, but usually on a national treatment basis. Preference may be given to those applicants showing benefits to the local economy. See individual Country Commercial Guides for Member State practices.

Right to Private Ownership and Establishment

[Return to top](#)

The right to private ownership is firmly established in EU law, as well as in the law of the individual Member States. See above concerning regulations with respect to establishment.

Protection of Property Rights

[Return to top](#)

Property rights are respected and protected in the EU and its Member States. The EU and/or its Member States adhere to all major intellectual property rights agreements, and offer strong IPR protection, including implementation of the WTO TRIPS provisions.

Enforcement of Intellectual and Industrial Property Rights: In April 2004, the EU adopted a Directive on the enforcement of intellectual and industrial property rights, such as copyright and related rights, trademarks, designs, or patents. This Directive requires all Member States to apply effective and proportionate remedies and penalties that form a deterrent against those engaged in counterfeiting and piracy. Member States are required to have a similar set of measures, procedures, and remedies available for right holders to defend their IPR. The Directive includes procedures covering evidence and measures such as injunctions and seizures. Remedies available to right holders include the destruction, recall, or permanent removal from the market of illegal goods, as well as financial compensation, injunctions, and damages. There is a right to information allowing judges to order certain persons to reveal the names and addresses of those involved in distributing illegal goods or services, along with details of the quantities and prices involved. Under the Directive, Member States will have to appoint national correspondents to cooperate and exchange information with other Member States and with the Commission. The Directive takes on additional importance because of the expansion through EU enlargement of the EU's borders to the east, which moves them closer to countries such as Russia that have been a persistent source of pirated CDs and DVDs. Member States, including the ten new Member States, have until April 2006 to implement the Directive.

On October 11, 2005 the European Commission adopted a communication outlining actions aimed at enhancing the efficiency of EU customs authorities' response to counterfeiting and piracy. Although not a legislative proposal, the Communication puts forth an Action Plan on implementation of current legislation, focuses on enhanced partnership with economic operators and the promotion of co-operation with third countries.

Criminal Enforcement: On November 23, 2005 the European Commission adopted a communication, outlining seven current pieces of legislation, which will have to be revised to include specifically criminal sanctions in case of infringements. The seven areas affected include money laundering, intellectual property violations, corruption, human trafficking, maritime pollution, Euro counterfeiting, and Internet-related infringements such as hacking. The communication has been adopted within the context of a European Court of Justice ruling that the Commission had the right to set criminal sanctions for breaches of legislation in policy areas where the EU law has primacy (i.e. first pillar), which member states must then enforce. According to the communication, the Commission will establish criminal penalties that must be enforced by member states, and those governments not enforcing them will be brought to the EU Court of Justice. The Commission had proposed a directive on criminal measures to enforce IPR on 7 December, but is planning to reissue this proposal in light of the communication and ECJ ruling.

Copyright: In April 2001, the EU adopted a Directive establishing pan-EU rules on copyright and related rights in the information society. The Directive is meant to provide a secure environment for cross-border trade in copyright-protected goods and services, and to facilitate the development of electronic commerce in the field of new and multimedia products and services. The authors' exclusive reproduction rights are guaranteed with a single mandatory exception for technical copies, and an exhaustive list of exceptions to copyright which are optional for Member States in terms of including them in national law. July 2004 the European Commission published a working paper on the EC's legal framework in the field of copyright and related rights, and launched public consultations on simplifying and fine-tuning existing legislation in the field. The Commission will take into account the results of the consultations (closed in October 2005) before proposing further legislative amendments.

Trademarks: Registration of trademarks with the European Union's Office for Harmonization in the Internal Market (OHIM) began in 1996. OHIM issues a single Community Trademark (CTM) that is valid in all EU Member States. On October 1, 2004 the EC acceded to the World Intellectual Property Organization (WIPO) Madrid Protocol. The accession of the EC to the Madrid Protocol establishes a link between the Madrid Protocol system, administered by WIPO, and the Community Trademark system, administered by OHIM. As of 1 October 2004, Community Trademark applicants and holders are allowed to apply for international protection of their trademarks through the filing of an international application under the Madrid Protocol. Conversely, holders of international registrations under the Madrid Protocol will be entitled to apply for protection of their trademarks under the Community trademark system. The link between the OHIM and the WIPO registration systems will allow firms to profit simultaneously from the advantages of each, while also reducing costs and simplifying the administrative aspects.

On October 17, 2005 the European Commission announced that prices for trademark protection across the 25 Member States will be reduced. Application fees are to be reduced by about 25%, renewal fees by 40%, and there will be further reductions for e-filing. The Commission is required to balance its budget through fees; however, not make a profit. The fees were originally decided based on lower projections of annual applications. The reductions are based on improved efficiencies and economies of scale. The cuts will bring annual savings to companies of about 40 million Euro. For the price of about 4-5 national European trademarks, companies can get protection in all 25 Member States.

Designs: The EU adopted a Regulation introducing a single Community system for the protection of designs in December 2001. The Regulation provides for two types of design protection, directly applicable in each EU Member State: the registered Community design and the unregistered Community design. Under the registered Community design system, holders of eligible designs can use an inexpensive procedure to register them with the EU's Office for Harmonization in the Internal Market (OHIM), based in Alicante, Spain. They will then be granted exclusive rights to use the designs anywhere in the EU for up to twenty-five years. Unregistered Community designs that meet the Regulation's requirements are automatically protected for three years from the date of disclosure of the design to the public. Protection for any registered Community design was automatically extended to the 10 new EU member states on May 1, 2004.

Patents: It is not yet possible to file for a single EU-wide patent that would be administered and enforced in all EU member states. The most effective way to secure a patent across a range of EU national markets is to use the services of the European Patent Office (EPO). EPO offers a one-stop-shop that enables rights holders to obtain various national patents using a single application. However, these national patents have to be validated, maintained and litigated separately in each Member State. Although the European Commission came out with a proposed regulation in 2000 (COM 412) on the institutional framework regarding the establishment of a community patent, Council (member states) has repeatedly failed to reach agreement on the dossier. The main outstanding issue relates to the translation of patent claims.

Geographical Indications: The EU's system for the protection of geographical indications, apparently reflected in Community Regulation 1493/99 for wines and spirits and Regulation 2081/92 for certain agricultural products and foodstuffs, appears to fall short of what is required under the TRIPS Agreement; notably, that system does not appear to be available to other WTO Members on a national treatment or MFN basis. Under the TRIPS Agreement, the EU is obligated to make such protection available to nationals of all WTO Members. In addition, both regulations appear to deprive trademark owners of TRIPS-level ownership rights. U.S. industry has been vocal in raising concerns about the impact of these EU regulations on U.S.-owned trademarks.

For these reasons, in 1999 the United States initiated formal WTO consultations with the EU on Regulation 2081/92. Bilateral discussions continued in 2000 and 2001 and intensified in 2002, following the European Commission's release of a number of proposed amendments to the regulation. While some of the proposed amendments to 2081/92 are intended to address the WTO concerns expressed by the United States, they do not address all of these concerns and, in some instances, raise new concerns. In August 2003, the United States requested the establishment of a WTO dispute

settlement panel to consider the WTO-consistency of the EU's geographic indications regime.

The WTO panel report was adopted at a Dispute Settlement Body meeting in April 2005. The WTO panel agreed with the U.S. that the EC Regulation discriminates against non-EU products and producers. The panel also agreed with the United States that Europe could not, consistent with WTO rules, deny U.S. trademark owners their rights. The panel emphasized that any exceptions to trademark rights for the use of registered GIs were narrow, and limited to the actual GI name as registered.

On January 4, 2006 the European Commission adopted two proposals aimed at updating EU geographical indication rules in order to bring them into accordance with WTO rules by April 2006. The Commission proposals call for a simplification of registration procedures via a "single document containing all the necessary procedures", and to clarify the role of member states. Both proposals will need Council and European Parliament approval.

EU International Efforts to expand GI protection: The EU continues to press forward with its campaign to have geographical indications internationally recognized and to expand the registry of geographical indications beyond wines and spirits to other foodstuffs. This has developed as a major EU priority in the context of the Doha Development Agenda negotiations in the WTO, in which a decision is still pending regarding whether to negotiate rules to extend GI protections beyond wine and spirits. The U.S. and other WTO members continue to oppose the EU's proposals to extend GI protection, noting that the objective of effective protection of such names can be accomplished through existing trademark rules.

U.S.-EU efforts to coordinate on IP counterfeiting: At the U.S.-EU summit of June 2005, leaders agreed to an IPR Enforcement Cooperation Strategy in order to better address global piracy and counterfeiting. Focus is to be placed on customs cooperation and border enforcement, strengthening cooperation with and in third countries, public-private partnerships and awareness, and relevant aspects of work on enforcement done in other fora. At the 30 November U.S.-EU Ministerial, ministers agreed on a work-plan. Ministers also agreed to set up a working group to be established by end of January 2006 to carry forward the work-plan and Strategy.

Transparency of Regulatory System

[Return to top](#)

The EU regulatory system can be considered generally transparent in that all laws and regulations are published in the Official Journal of the European Communities. However, the process by which regulations (and related technical standards) are developed is not as operationally transparent as U.S. firms are generally accustomed to (such as the U.S. Administrative Procedures Act). The problems for U.S. stakeholders have revolved around access, accountability and redress. In 2002, the Commission released two sets of documents that comprise a "Better Regulation Action Plan." The most important components of the plan include commitments to: more comprehensive consultations with interested stakeholders, including a minimum eight week period for public comments; full impact assessments of proposed legislation/regulation; and consideration of alternatives to traditional regulation. The Better Regulation Action Plan represents a significant step toward increased transparency and potentially more efficient EU-wide regulation.

In December 2003, all three EU legislative bodies (Council, Commission and Parliament) signed an "Inter-Institutional agreement on better lawmaking," which aims to improve coordination between the institutions during a legislative process, and which provides clarification on the use of alternative methods of lawmaking such as co-regulation (by EU and Member States) and self-regulation. The agreement also states that the transposition by Member States of EU laws should never take more than two years. There are still areas, however, where Member State implementation of EU directives is either not consistent or fully effective.

On January 26, 2004, Ireland, The Netherlands, Luxembourg and the U.K issued the Joint Initiative on Regulatory Reform, highlighting the need to improve the EU regulatory framework. The aim is to focus on how best to minimize administrative burdens and costs for Industry due to current and especially upcoming legislation. The European Commission submitted written comments on the initiative, supporting better monitoring of implementation of regulation, incorporation of impact assessments in law-making, simplification of legislation, greater use of review clauses, and the importance of a pro-active competition policy to foster competitiveness of EU's industry. The Commission also underscored the crucial importance of improving better regulation at the national level. The four countries have stressed that this is a long-term project, which "needs to be sustained by all future EU presidencies". Both the current Austrian Presidency and future Finnish Presidency (July-December 2006) have agreed to continue work on the initiative.

In its effort to deliver on its promise to promote better regulation, this past October the Commission adopted a three-year action plan for simplifying existing EU legislation. Over a thousand legal acts across nearly all policy areas are to be scrapped or modified. EU Enterprise Commissioner, Gunter Verheugen, stressed that the changes do not mean a watering down of existing legislation, but instead the aim is to make legislation less burdensome to apply in order to stimulate growth. The initiative covers most policy sectors, but the most heavily regulated sectors (such as waste, cars, construction) will be tackled first, followed by the pharmaceutical, engineering and information technology.

In November 2005 the European Commission adopted a Communication on the launch of a European transparency initiative. The initiative aims to make the EU decision-making process more transparent and thereby is to address three main issues: availability of data as regards end-recipients of EU subsidies, personal integrity and fraud, and transparency of lobbying activities. On the issue of possibly regulating lobbying activities, the Commission is currently not envisioning a mandatory regulation on lobbying, but instead a voluntary agreement. On EU subsidies, the Commission is to establish a central web portal, providing links to information on end-recipients. A Commission Green Paper on transparency is due to be released in the first half of 2006 and will be followed by discussions with the European Parliament and other stakeholders.

At the June 2005 U.S.-EU summit, the U.S. and the EU agreed to a Roadmap for Regulatory Cooperation that outlines a work plan for joint horizontal and sectoral efforts. Many of the bilateral, economic conflicts between the U.S. and the EU are due to divergent regulatory approaches. In order to avoid such conflicts, both the U.S. and the EU have agreed that more dialogue is needed to promote transatlantic regulatory cooperation. The initiative covers fifteen sectoral dialogues and the establishment of the EC-OMB Dialogue. The first EC-OMB dialogue took place September 28-30, 2005 in

Washington D.C., with the second meeting scheduled for end of January 2006 in Brussels.

Efficient Capital Markets and Portfolio Investment

[Return to top](#)

The EU Treaty specifically prohibits restrictions on capital movements and payments between the Member States and between the Member States and third countries. Per Article 59 of the EU Treaty, where movements of capital to or from third countries cause or threaten to cause serious difficulties for the operation of Economic and Monetary Union, the Council may, by qualified majority, impose appropriate limitations on such flows for a period not to exceed six months.

The single market project has spurred efforts to establish EU-wide capital markets. In 1999, the EU launched the Financial Services Action Plan (FSAP) to establish legal frameworks for integrated financial services (banking, equity, bond and insurance) markets within the EU. The FSAP aims to increase both market and regulatory efficiency and lead to greater growth and more coordination among Member State supervisory and regulatory authorities. The original target date of adoption of the entire plan was January 1, 2005 and most legislative measures included in the FSAP have been adopted. Examples of legislative measures adopted include the Directives on Prospectuses (permitting one approved prospectus to be used throughout the EU), on Transparency (detailing reporting requirements for listed firms), on Market in Financial Instruments (providing framework rules for securities exchanges and investment firms), on Takeover Bids (to facilitate cross-border takeovers mentioned above), the EC regulation requiring EU firms listed on EU exchanges to prepare accounts according to International Accounting Standards (IFRS) as of 2005, and the Directive on Capital Adequacy that implements the revised Basle Accord, establishing revised capital requirements for banks and investment firms (CAD III).

More recently, at the end of November 2005 the Commission put forth a new Legal Framework for Cross-Border Payments in the EU, and in July 2007 a Framework Directive is expected on the solvency system in the insurance sector (Insurance Solvency II). The Commission has also put forward a new White Paper with its plans till 2010. New legislation is expected to bring down barriers to cross-border provision of mortgage, asset management, and basic banking services.

Currently bank supervision remains with Member State authorities. The Committee of European Bank Supervisors (CEBS), composed of member state supervisors, has been established to ensure consistent implementation of CAD III throughout the EU. Monetary union gives the European Central Bank authority over the European banking system in certain areas, including the issuance of euro currency, banking statistics, a smooth payments system, and advising on banking supervision. In July 1998, the European Central Bank set substantial reserve requirements for banks in EU Member States.

Additional information is available at:

http://europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm

Political Violence

[Return to top](#)

Political violence is not unknown in the European Union, but it is, in general, extremely rare. Such incidents are almost always regional in nature, and individual Country Commercial Guides should be consulted for more details on problems in specific regions.

Corruption

[Return to top](#)

Per EU Treaty Article 280 (5), the EU and the Member States are jointly responsible for the fight against fraud and corruption affecting the EU's financial interests. A detailed overview of EU and Member State achievements in this regard (e.g., legislation protecting the euro against counterfeiting; public procurement legislation introducing a compulsory mechanism for excluding tenderers convicted of fraud/corruption) is provided in the EU's Anti-Fraud Office (OLAF) most recent annual report (year 2004) on the fight against fraud.

This report, presented in July 2005, is available online at the EU's Anti-Fraud Office website: http://europa.eu.int/comm/anti_fraud/reports/index_en.html#ec

The report broadly outlines the developments that the Community has taken in terms of protecting its financial interests and addressing fraud. An overview is given of the major developments in 2004, with emphasis on the structural measures and recovery in the field of direct expenditure.

Bilateral Investment Agreements

[Return to top](#)

The EU does not yet have any bilateral investment treaties in the traditional sense, although virtually all the Member States have extensive networks of such treaties with third countries. However, the EU's "Europe," "Association" and other such agreements with preferential trading partners often contain provisions directly related to the treatment of investment, generally providing at least for establishment, and capital and profit repatriation. In the context of the EU's enlargement negotiations, the U.S. Government has conveyed to the EU its concern that U.S. bilateral investment treaties with accession countries not be adversely affected.

Other regional or multilateral agreements addressing the admission of investors to which the Community and/or its Member States have adhered to include:

- a) the OECD codes of liberalization, which provide for non-discrimination and standstill for establishment and capital movements, including foreign direct investment;
- b) the Energy Charter Treaty (ECT), which contains a "best efforts" national treatment clause for the making of investments in the energy sector; and,
- c) the GATS, which contains an MFN obligation on all measures affecting the supply of services, including in relation to the mode of commercial presence.

OPIC and Other Investment Insurance Programs

[Return to top](#)

OPIC programs are not available in the EU, as a whole, although individual Member States have benefited from such coverage.

Issues such as employment, worker training, and social benefits remain primarily the responsibility of the EU Member States. However, the Member States are coordinating ever more closely their efforts to increase employment through macroeconomic policy cooperation, guidelines for action, the exchange of best practices, and programmatic support from various EU programs. The best information regarding conditions in individual countries is available through the labor and social ministries of the Member States.

Helpful information from the EU can be found on the websites for the European Commission's Directorate-General for Employment and Social Affairs, (http://www.europa.eu.int/comm/dgs/employment_social/index_en.htm) and on the Eurostat website (<http://www.europa.eu.int/comm/eurostat>).

In general, the labor force in EU countries is highly skilled and offers virtually any specialty required. The Member States regulate labor-management relations, and employees enjoy strong protection. The EU Member States have among the highest rates of ratification and implementation of ILO conventions in the world.

There is a strong tradition of labor unionism in most Member States. In many cases, the tradition is stronger than the modern reality. While the Nordic Member States (Denmark, Finland, and Sweden) still have high levels of membership in labor unions, many other large Member States, most notably Germany, and the United Kingdom, have seen their levels of organization drop nearly to U.S. levels (about 20-30 percent). French labor union membership, at under 10 percent of the workforce, remains lower than that of the U.S.

Foreign-Trade Zones/Free Ports[Return to top](#)

European Union law provides that Member States may designate parts of the Customs Territory of the Community as free trade zones and free warehouses. Information on free trade zones and free warehouses is contained in Title IV, Chapter Three, of Council Regulation (EEC) no. 2913/92, establishing the Community Customs Code, titled, "Free Zones and Free Warehouses" (Articles 166 through 182).

Article 166 states that free zones and free warehouses are part of the Customs Territory of the Community or premises situated in that territory and separated from the rest of it in which:

- a) Community goods are considered, for the purposes of import duties and commercial policy import measures, as not being on Community customs territory, provided they are not released for free circulation or placed under another customs procedure or used or consumed under conditions other than those provided for in customs regulations;
- b) Community goods for which such provision is made under Community legislation governing specific fields qualify, by virtue of being placed in a free zone or free warehouse, for measures normally attaching to the export of goods.

Articles 167-182 detail the customs control procedures, how goods are placed in or removed from free zones and free warehouses and their operation.

The use of free trade zones varies from Member State to Member State. For example, Germany maintains a number of free ports or free zones within a port that are roughly equivalent to U.S. foreign-trade zones, whereas Belgium has none. A full list of EU free trade zones was published in the EU's Official Journal No. C345 of December 2, 1999.

Foreign Direct Investment Statistics

[Return to top](#)

According to U.S. statistics (U.S. Bureau of Economic Analysis), the value of U.S. investment in the 25 member states of the European Union on a historical-cost basis, as of end-2004, was just over USD \$965 billion. The United Kingdom was the major EU host to U.S. foreign direct investment, with \$302 billion, followed by the Netherlands (\$201 billion), Germany (\$80 billion), Luxembourg (\$74 billion) and Ireland (\$73 billion).

For virtually all EU Member States, the largest "foreign" investors are in fact from other Member States.

More statistics on U.S. investment abroad are available at:

<http://www.bea.gov/bea/di1.htm>

Web Resources

[Return to top](#)

Internal Market DG – Financial Services Unit

http://europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm

Economic and Financial Affairs DG

http://europa.eu.int/comm/economy_finance/index_en.htm

Employment and Social Affairs DG

http://www.europa.eu.int/comm/dgs/employment_social/index_en.htm

Office for Harmonization in the Internal Market

http://europa.eu.int/agencies/ohim/index_en.htm

EU Anti-Fraud Office

http://europa.eu.int/comm/anti_fraud/index_en.html

Eurostat – EU Statistical Office

<http://www.europa.eu.int/comm/eurostat>

U.S. Bureau of Economic Analysis – Department of Commerce

<http://www.bea.gov/bea/di1.htm>

European Patent Office

<http://www.european-patent-office.org/index.en.php>

[Return to table of contents](#)

Chapter 7: Trade and Project Financing

- [Project Financing](#)
- [Web Resources](#)

Project Financing

[Return to top](#)

EU financial assistance programs provide a wide array of grants, loans, loan guarantees and co-financing for feasibility studies and infrastructure projects in a number of key sectors (e.g., environmental, transportation, energy, telecommunications, tourism, public health). From a commercial perspective, these initiatives create significant market opportunities for U.S. businesses, U.S.-based suppliers, and subcontractors.

The EU supports projects within its Member States, as well as EU-wide "economic integration" projects that cross both internal and external EU borders. In addition, the EU provides assistance to accession countries in Eastern and Southern Europe and Turkey, as well as some of the Newly Independent States of the former Soviet Union. The ten countries that joined the EU in May 2004 lost their eligibility for Pre-Accession Aid, and are now eligible to receive all EU grants, including Structural Funds and Cohesion Fund grants.

The European Union provides project financing through grants from the European Commission and loans from the European Investment Bank. Grants from the Structural Funds are distributed through the Member States' national and regional authorities, and are only available for projects in the 25 EU Member States. All grants for projects in non-EU countries are managed through the EuropeAid Cooperation agency in conjunction with various European Commission departments, called "Directorates-General."

The EU Structural Funds

The EU Structural Funds, including the European Regional Development Fund, were created in 1975 to assist economically depressed regions of the European Union that required industrial restructuring. The EU earmarked €195 billion for projects under the Structural Funds programs during the 2000-2006 period for the EU-15. A separate package of €24.4 billion has been earmarked for the ten new Member States for the 2004-2006 period. In addition to funding economic development projects proposed by Member States or local authorities, EU Structural Funds also support specialized projects promoting EU socioeconomic objectives. Member States negotiate regional and "sectoral" programs with officials from the regional policy Directorate-General at the European Commission. For information on approved programs that will result in future project proposals, please see:

http://www.europa.eu.int/comm/regional_policy/country/prordn/index_en.cfm.

For projects financed through the Structural Funds, Member State officials are the key decision-makers: they assess the needs of their country; instigate projects; evaluate bids; and award contracts. To become familiar with available financial support programs in the Member States, it is advisable for would-be contractors to meet with local officials to discuss local needs.

Tenders issued by Member State public contracting authorities for projects supported by EU grants are subject to EU public procurement legislation if they meet the EU minimum contract value requirement for the eligible sector. Below this threshold, tender procedures are subject to national procurement legislation. There are no overt prohibitions against the participation of U.S. companies, either as developers or concessionaires of projects supported partially by the Structural Funds, or as bidders on subsequent public tenders related to such projects. All Structural Fund projects are co-financed by national authorities and most may also qualify for a loan from the European Investment Bank. The private sector is also involved in project financing.

The U.S. Commercial Service at the U.S. Mission to the European Union offers a tool on its website to help U.S.-based companies identify European public procurement opportunities. The database features all current public procurement tenders issued by all national and regional public authorities in the 25 Member States of the European Union, plus four other European countries, that are open to U.S.-based firms under the terms of the Government Procurement Agreement (GPA) implemented in 1995. The database is updated twice weekly and is easy to use with a range of search options, including around 20 industry sectors. The database also contains tenders for public procurement contracts relating to structural funds. Readers may access the database at <http://www.buyusa.gov/europeanunion>.

Cohesion Fund

The Cohesion Fund is another instrument of EU structural policy. Its €18 billion (2000-2006) budget seeks to improve cohesion within the EU by funding transport infrastructure and environmental projects in three countries: Portugal, Spain and Greece. (Ireland is no longer eligible for Cohesion Fund grants since 2004.) The ten new EU Member States have been allocated € 8.4 billion for project financing through the Cohesion Fund for 2004-2006. These projects are generally co-financed by national authorities, the European Investment Bank, and the private sector.

The Trans-European Networks

The European Union also provides financial support to the Trans-European Networks (TENs) to develop infrastructure, strengthen cohesion and increase employment across greater Europe. These will total €4.7 billion for 2000-2006. Launched at the Essen Counsel (Germany) in 1994, the TENs are a series of transport, telecommunications and energy projects that are continually being expanded and upgraded. The TENs are largely financed by private sector and non-EU sources. The EU does, however, provide grants from the Cohesion Fund, loans from the European Investment Bank (and loan guarantees from the European Investment Fund), and partial feasibility study grants for the TENs. There are no overt EU restrictions on the participation of U.S. firms in the TENs. Tenders are published in the Official Journal of the European Union, the

electronic version of which is called the TED (Tenders Electronic Daily). Tenders for these EU-funded programs are published in the <http://ted.publications.eu.int/official/> .

External Assistance Grants

The EuropeAid Cooperation Office was launched in 2001 as the new European Commission agency charged with managing the EU's external aid programs. This Agency is responsible for the management of the entire project cycle, from identification to evaluation, while the Directorates-General in charge of External Relations and Development, are responsible for the drafting of multi-annual programs. The EuropeAid website offers extensive information on the range of grant programs, the kind of projects that are eligible, as well as manuals to help interested parties understand the relevant contract law.

Key Link: http://europa.eu.int/comm/europeaid/index_en.htm.

Europe's development assistance grants focus mainly on three regions of the world: Southeastern European countries, the Southern Mediterranean region and the African, Pacific and Caribbean area.

The European Union provides specific Pre-Accession financial assistance to three accession candidate countries that seek to join the EU, Bulgaria, Romania and Croatia, through the following three programs: PHARE, ISPA and SAPARD. Generally, those three pre-accession grant programs are tied-aid programs, meaning that U.S. firms, who do not have a subsidiary (registered, with a substantial turnover, paying taxes, employing local staff, and "legally" established) within any of the 25 EU Member State, or in one of the candidate countries, or in one of the other candidate countries will not be able to participate in projects financed by PHARE, ISPA and SAPARD, as they are U.S.-based only. Those restrictions apply to all pre-accession programs. Unlike all other external assistance programs and because of their specific nature, these "pre-accession" programs are managed by the Directorates-General in charge of the sector concerned and not by EuropeAid. The figures given for the financial allocations of those three programs hereunder are indicative only.

- PHARE (Poland and Hungary Assistance for Restructuring of the Economy), established in 1989, now grants assistance to Bulgaria, Romania and Croatia. The PHARE program focuses on priorities linked to the adoption of the *acquis communautaire* (the body of European Union law that must be adopted in accession candidate countries as a precondition to accession), i.e., building up the administrative and institutional capacities of the applicant countries and financing investments designed to help them comply with Community law. PHARE is managed by the Directorate-General for Enlargement. PHARE allocations for 2005 and 2006 are: € 808 million for Bulgaria, € 2 billion for Romania and € 160 million for Croatia.

Key Link: <http://europa.eu.int/comm/enlargement/pas/phare/>

- ISPA, Instrument for Structural Pre-Accession, covers environmental and transport projects for Bulgaria, Romania and Croatia. This program is managed by the

Directorate-General for Regional Policy. The ISPA website offers a database of current projects searchable by country and industry sector. ISPA allocations for 2005 and 2006 are: € 314 million for Bulgaria, € 724 million for Romania and € 60 million for Croatia.

Key Links: <http://europa.eu.int/comm/enlargement/pas/ispa.htm>
http://www.europa.eu.int/comm/regional_policy/funds/ispa/projec_en.htm.

- SAPARD, Special Accession Program for Agriculture and Rural Development, provides financial assistance to projects aimed at enhancing competitiveness and efficiency in farming and the food industry, as well as implementing the bulk of EU laws in this sector. The Directorate-General for Agriculture is responsible for managing the SAPARD program. The press release section of its website contains the list of all financial allocations granted to current projects. SAPARD allocations for 2005 and 2006 are: € 157 million for Bulgaria, € 367 million for Romania and € 25 million for Croatia.

Key Links: http://europa.eu.int/comm/agriculture/external/enlarge/index_en.htm
http://www.europa.eu.int/comm/agriculture/external/enlarge/press/index_en.htm.

The other geographical areas are covered through the following programs:

- TACIS: Launched by the EC in 1991, the TACIS Program provides grant-financed technical assistance to 13 countries of Eastern Europe and Central Asia (e.g., Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan), and mainly aims at enhancing the transition process towards a market economy in these countries. TACIS budget for the 2000-2006 period is € 3.138 billion. The new TACIS 2000 Regulation outlines the range of projects covered by the program: institutional, legal and administrative reform; private sector and economic development; environmental protection; rural economy; nuclear safety; consequences of changes in society; and infrastructure networks.

For all information on TACIS, see:
http://www.europa.eu.int/comm/external_relations/ceeca/tacis/index.htm.

Eligibility Participation in projects supported by TACIS, PHARE, ISPA, or SAPARD is restricted to European or local (CEEC/NIS) companies (whether or not of U.S. parentage), whose products have undergone their last substantial manufacturing transformation in the European Union or one of the grant recipient countries. U.S. firms, who do not have a subsidiary (registered, with a substantial turnover, paying taxes, employing local staff, and “legally” established) within any of the 25 EU Member States, or in one of the candidate countries will not be able to participate.

The MEDA program funds projects in the Euro-Mediterranean Partnership zone (Maghreb and Mashrek countries). Information is available from the following website:
http://europa.eu.int/comm/external_relations/euromed/meda.htm.

http://europa.eu.int/comm/europeaid/projects/med/foreword_en.htm#2

- The European Development Fund (EDF) funds projects in 70 African, Caribbean and Pacific countries. Information is available from the following website: http://europa.eu.int/comm/development/index_en.htm.
- The CARDS, Community Assistance to Reconstruction, Developing and Stabilization, program assists southeastern European countries in the Western Balkans (Albania, Bosnia and Herzegovina, Serbia, Montenegro and the former Yugoslav Republic of Macedonia). The types of projects financed with CARDS funds equal those of the PHARE program, i.e. institution building and investment in manufacturing and infrastructure. Its budget for 2002-2006 amounts to € 4.6 billion.
Key Link: http://europa.eu.int/comm/enlargement/cards/index_en.htm

All tenders related to EU-funded programs outside the territory of the European Union (including the accession countries) are located on the Europe-Aid Co-operation Office website: http://europa.eu.int/comm/europeaid/tender/index_en.htm.

Other Sectoral Grants

A second set of sector-specific grants offers assistance to EU Member States in the fields of science, technology, communications, energy, environmental protection, education, training and research. Tenders related to these grants are posted on the European Commission website as well as calls for proposals. Conditions for participation are strict and participation is usually restricted to EU firms or tied to EU content. Information pertaining to each of these programs and the related calls for tender and calls for proposals can be found on: http://europa.eu.int/grants/index_en.htm

Loans from the European Investment Bank

Headquartered in Luxembourg, the European Investment Bank is the financing arm of the European Union. Since its creation in 1958, the EIB has been a key player in building Europe. As the EIB's lending practices evolved over the years, it became highly competent in assessing, reviewing and monitoring projects. As a non-profit banking institution, the EIB offers cost-competitive, long-term lending in Europe. Best known for its project financial and economic analysis, the Bank makes loans to both private and public EU-based borrowers for projects in all sectors of the economy, such as telecommunications, transport, energy infrastructure and environment.

While the EIB mostly funds projects within the EU, it lends outside the EU as well (e.g., in Central, Eastern and Southeastern Europe; Latin America; and Pacific and Caribbean states). In 2004, the EIB signed contracts worth € 43.2 billion, of which 8 % were lent outside the European Union. The EIB also plays a key role in supporting EU enlargement, with loans used to finance improvements in infrastructure, research and industrial manufacturing to help those countries prepare for eventual EU membership.

Projects financed by the EIB must contribute to the socioeconomic objectives set out by the European Union, such as fostering the development of less favored regions;

improving European transport and telecommunication infrastructure; protecting the environment; supporting the activities of SMEs; assisting urban renewal; and, generally promoting growth, competitiveness and employment in Europe. Last year, the EIB created a list of projects to be considered for approval and posted the list on its website. As such, the EIB website is a source of intelligence on upcoming tenders related to EIB-financed projects: <http://www.eib.org/projects/>.

The EIB presents attractive business opportunities to U.S. businesses for several reasons. First, EIB lending rates are lower than most other commercial rates. Like all EIB customers, however, U.S. firms must apply the loan proceeds to a project that contributes to the European objectives cited above. Second, as the financing arm of the EU, the EIB can also help U.S. businesses find out whether their projects qualify for a supplementary economic development grant from the European Union Structural Funds, which can amount to as much as 50 percent of project costs.

The EIB's i2i (Innovation 2010 Initiative) is designed to highlight projects that support innovative technology in the European Union, in particular by financing broadband and multimedia networks; the physical or virtual infrastructure providing local access to these networks; and research and development infrastructures, especially in the less developed regions of the European Union. i2i will also finance projects to computerize schools and universities and to provide information technology training in conjunction with public authorities. This new re-orientation of the Bank's activities is a follow-up to the strategy established at the Lisbon and Feira EU summits in Portugal (March and June 2000), emphasizing the need for Europe to develop a more competitive and dynamic knowledge-based economy. A budget of €20 billion for the 2003-2006 period is to be dedicated toward this end.

To learn more about the EIB, consult its website, <http://www.eib.org/>.

Tendering for European public procurement contracts

The US Mission to the European Union in Brussels has developed a tool to help US-based companies bid on public procurement supplies contracts in particular. All contracts for supplies that are procured by European public authorities (national government departments, regional agencies and institutions, city authorities) above established thresholds are open to US-based companies by virtue of the Government Procurement Agreement, of which the U.S. and the EU are parties. All the tenders in this database are based on a selection of tenders published in the EU Official Journal, that are open to GPA member countries. The database contains on average 6,000 to 10,000 tenders and is updated twice per week.

http://www.buyusa.gov/europeanunion/eu_tenders.html

Web Resources

[Return to top](#)

<http://www.exim.gov>

Export-Import Bank of the United States

http://www.exim.gov/tools/country/country_limits.html

Country Limitation Schedule

<http://www.opic.gov>

OPIC

<http://www.tda.gov/>

Trade and Development Agency

<http://www.sba.gov/oit/>

SBA's Office of International Trade

<http://www.fsa.usda.gov/ccc/default.htm>

USDA Commodity Credit Corporation

<http://www.usaid.gov>

U.S. Agency for International Development

http://www.europa.eu.int/comm/regional_policy/country/prordn/index_en.cfm

EC Regional Development Programmes 2000-2006

<http://www.buyusa.gov/europeanunion>

European Union Tenders Database

http://europa.eu.int/comm/europeaid/index_en.htm

Europe Aid Co-operation Office

<http://europa.eu.int/comm/enlargement/pas/phare/>

PHARE (Poland and Hungary Assistance for Restructuring of the Economy) website

<http://europa.eu.int/comm/enlargement/pas/ispa.htm>

ISPA (Instrument for Structural Pre-Accession)

http://www.europa.eu.int/comm/regional_policy/funds/ispa/projec_en.htm

ISPA Projects

http://europa.eu.int/comm/agriculture/external/enlarge/index_en.htm

http://www.europa.eu.int/comm/agriculture/external/enlarge/press/index_en.htm

EC Agriculture and Enlargement websites

http://www.europa.eu.int/comm/external_relations/ceeca/tacis/index.htm

TACIS Program

www.europa.eu.int/comm/development

EC Development website

http://europa.eu.int/comm/enlargement/cards/index_en.htm

EC CARDS Programme

http://europa.eu.int/comm/europeaid/tender/index_en.htm

EuropeAid Procedures and Standard Documents

http://europa.eu.int/comm/secretariat_general/sgc/info_subv/index_en.htm

EU Grants and Loans

<http://www.eib.org/projects/>

European Investment Bank (EIB) projects

<http://www.eib.org/>

European Investment Bank website

[Return to table of contents](#)

Chapter 8: Business Travel

- [Business Customs](#)
- [Travel Advisory](#)
- [Visa Requirements](#)
- [Telecommunications](#)
- [Transportation](#)
- [Language](#)
- [Health](#)
- [Local Time, Business Hours and Holidays](#)
- [Temporary Entry of Materials and Personal Belongings](#)
- [Web Resources](#)

Business Customs

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Travel Advisory

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Visa Requirements

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

U.S. Companies that require travel of foreign businesspersons to the United States should allow sufficient time for visa issuance if required. Visa applicants should go to the following links.

State Department Visa Website: <http://travel.state.gov/visa/index.html>

United States Visas.gov: <http://www.unitedstatesvisas.gov/>

Telecommunications

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Transportation

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Language

[Return to top](#)

Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovene, Spanish, Swedish; note - only official languages are listed.

Health

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Local Time, Business Hours, and Holidays

[Return to top](#)

The European institutions generally follow the holidays of the EU Member State in which they are located. During the month of August the European institutions are staffed with a minimum of personnel. For information on local holidays in the EU Member States, please see their Country Commercial Guides. The following is a list of holidays observed by the European Commission in Belgium and Luxembourg during calendar year 2006, as published in the *Official Journal of the European Union* (2005/C 1/7):

April 13	Holy Thursday
April 14	Good Friday
April 17	Easter Monday
May 9	Anniversary of Schuman's Declaration
May 25	Ascension Day
May 26	Friday following Ascension
June 5	Whit Monday
June 23	National Holiday (Luxembourg)

July 21	National Holiday (Belgium)
August 15	Assumption Day
October 31	All Saints' Eve
November 1	All Saints' Day
November 2	All Souls' Day
December 25-29	Christmas and end of year

The U.S. Mission to the European Union is closed on most U.S. and Belgian holidays.

For local time and business hours, please refer to Member State Country Commercial Guides.

U.S. Business Travelers are encouraged to refer to "Key Officers of Foreign Service Posts: Guide for Business Representatives," a State Department publication available on the State Department website at <http://foia.state.gov/MMS/KOH/keyofficers.asp>. Business travelers to the European Union seeking appointments with officials in the U.S. Mission to the European Union in Brussels, Belgium, should contact the Commercial Service in advance. The Commercial Service at the U.S. Mission to the European Union can be reached by telephone at +32-2 508-2746, by fax at +32-2 513-1228, or by e-mail at brussels.ec.office.box@mail.doc.gov. A current directory of staff and locations worldwide may be accessed on the Commercial Service websites http://www.export.gov/comm_svc/ and <http://www.buyusa.gov/>.

Temporary Entry of Materials and Personal Belongings

[Return to top](#)

Please see EU Member State Country Commercial Guides which can be found at the following website: <http://www.export.gov/marketresearch.html> under Country and Industry Market Reports.

Web Resources

[Return to top](#)

http://www.export.gov/comm_svc/, <http://www.buyusa.gov/>
Commercial Service directories

<http://www.europages.com/home-en.html>
European Business Directory

<http://europa.eu.int/business/en/index.html>
European Commission "One Stop Internet Shop for Business"

<http://foia.state.gov/MMS/KOH/keyofficers.asp>
Key Officers of Foreign Service Posts: Guide for Business Representatives

<http://travel.state.gov/visa/index.html>
State Department Visa Website

<http://www.unitedstatesvisas.gov/>

United States Visas.gov

<http://www.usembassy.be>

United States Embassy in Belgium

[Return to table of contents](#)

Chapter 9: Contacts, Market Research, and Trade Events

- [Contacts](#)
- [Market Research](#)
- [Trade Events](#)

Contacts

[Return to top](#)

United States Department of Commerce - Contacts at the U.S. Mission to the EU:

Minister Counselor for Commercial Affairs Jonathan Bensky	32.2.508.27.46	jonathan.bensky@mail.doc.gov
Deputy Senior Commercial Officer Rosemary Gallant	32.2.508.27.55	rosemary.gallant@mail.doc.gov
Standards Attaché Gwen Lyle	32.2.508.26.74	gwen.lyle@mail.doc.gov
Trade Compliance Attaché Catherine Vial	32.2.508.27.69	catherine.vial@mail.doc.gov
Commercial Officer Jennifer Kane	32.2.508.28.40	jennifer.kane@mail.doc.gov
NOAA Fisheries Representative Stephane Vrignaud	32.2.508.28.42	stephane.vrignaud@mail.doc.gov

U.S. Commercial Service

U.S. Mission to the European Union
Rue Zinner 13
B-1000 Brussels, Belgium
Tel.: 32.2.508.22.22
Fax: 32.2.513.12.28
E-mail: brussels.ec.office.box@mail.doc.gov
Website: <http://www.buyusa.gov/europeanunion>

United States Department of Agriculture - Contacts at the U.S. Mission to the EU:

Office of Agricultural Affairs

U.S. Mission to the EU
Rue Zinner 13
B-1000 Brussels, Belgium
Tel.: 32.2.508.27.60
Fax: 32.2.511.09.18

E-mail: AgUSEUBrussels@usda.gov
Website: <http://www.useu.be/agri>

The European Commission:

For Information on Customs-related Matters within the European Union:

Mr. Robert Verrue

Director General

Directorate General Taxation and Customs Union

Rue de la Loi 200

B-1049 Brussels

Tel.: 32.2.295.43.76

Fax: 32.2.296.90.46

Website: http://europa.eu.int/comm/taxation_customs/customs/customs.htm

For general information about the European Union:

European Union

Delegation of the European Commission to the United States

2300 M Street, N.W.

Washington, D.C. 20037

Tel.: (202) 862-9500

Fax: (202) 429-1766

Website: <http://www.eurunion.org/>

European Commission

Rue de la Loi 200 / Wetstraat 200

B-1049 Brussels, Belgium

Tel.: 32.2.299.11.11 (switchboard)

Fax: 32.2.295.01.38 (also 295.01.39 and 295.01.40)

Websites: http://europa.eu.int/comm/index_en.htm (European Commission)
http://www.europa.eu.int/comm/dgs/external_relations/index_en.htm (EU-U.S. relations)

Customs Cooperation Council (a.k.a. the World Customs Organization):

Mr. Michel Danet

Secretary General

Rue du Marché 30

B-1210 Brussels

Tel.: 32.2.209.92.11

Fax: 32.2.209.92.92

Website: <http://www.wcoomd.org/>

Standards Contacts:

Dr. Carmiña Londono

Chief of the Global Standards and Information Program
National Centers for Standards and Certification Information (NCSCI)
National Institute of Standards & Technology
Gaithersburg, Maryland 20899
Tel.: (301) 975-4040

CEN – European Committee for Standardization

Rue de Stassart 36
B – 1050 Brussels, Belgium
Fax: 32.2.550.08.19
Tel: 32.2.550.08.25 / 550.08.11
Website: <http://www.cenorm.be/>

CENELEC – European Committee for Electrotechnical Standardization

Rue de Stassart 35
B – 1050 Brussels, Belgium
Tel: 32.2.519.68.71
Fax: 32.2.519.69.19
Website: <http://www.cenelec.org/>

ETSI - European Telecommunications Standards Institute

Route des Lucioles 650
F – 06921 Sophia Antipolis Cedex, France
Tel: 33.4.92.94.42.12
Fax: 33.4.93.65.22.99
Website: <http://www.etsi.org/>

European Commission

Enterprise Directorate - General
Rue de la Science 15
B – 1040 Brussels, Belgium
Mail: Office: SC15 02/09 B – 1049 Brussels
Tel: 32.2.299.56.72
Fax: 32.2.299.16.75
Website: http://europa.eu.int/comm/enterprise/standards_policy/

EFTA – European Free Trade Association

Rue de Trèves 74
B – 1040 Brussels
Tel: 32.2.286.17.41
Fax: 32.2.286.17.42
Website: <http://www.efta.int/>

NORMAPME – European Office of Crafts Trades and Small and Medium-Sized Enterprises for Standardization

Rue Jacques de Lalaing 4
B – 1040 Brussels, Belgium
Tel: 32.2.282.05.31
Fax: 32.2.282.05.35
Website: <http://www.normapme.com/>

ANEC - European Association for the Co-ordination of Consumer Representation in Standardization

Avenue de Tervueren 36, Box 4
B – 1040 Brussels, Belgium
Tel: 32.2.743.24.70
Fax: 32.2.706.54.30
Website: <http://www.anec.org/>

ECOS – European Environmental Citizens Organization for Standardization

Boulevard de Waterloo 34
B – 1000 Brussels, Belgium
Tel: 32.2.289.10.93
Fax: 32.2.289.10.99
Website: <http://www.ecostandard.org/>

EOTA – European Organization for Technical Approvals (for construction products)

Avenue des Arts 40
B – 1040 Brussels, Belgium
Tel: 32.2.502.69.00
Fax: 32.2.502.38.14
Website: <http://www.eota.be/>

EOTC – European Organization for Conformity Assessment

Rue de Stassart 36
B – 1050 Brussels, Belgium
Tel: 32.2.502.40.40
Fax: 32.2.502.42.39
Website: <http://www.eotc.be/>

Private Sector Associations:

AmchamEU

53 Avenue des Arts
B-1000 Brussels, Belgium
Tel.: 32.2.513.68.92
Fax: 32.2.513.79.28
Website: <http://www.amchameu.be/>

European-American Business Council – EU Office

Rue de l'Industrie 26
B-1040 Brussels, Belgium
Tel : 32.2.513.38.72
Website: <http://www.eabc.org/>

European-American Business Council – US Office

1331 Pennsylvania Avenue, NW, Suite 600
Washington, D.C. 20004
Tel.: (202) 637-3440
Fax: (202) 637-3182

Website: <http://www.eabc.org/>

The European Institute

5225 Wisconsin Avenue, N.W., Suite 200

Washington, D.C. 20015

Tel.: (202) 895-1670

Fax: (202) 362-1088

Website: <http://www.europeaninstitute.org/>

Centre for European Policy Studies (CEPS)

1 Place du Congres

B-1000 Brussels, Belgium

Tel.: 32.2.229.39.11

Fax: 32.2.219.41.51

Website: <http://www.ceps.be/>

The European Policy Centre

Residence Palace

155 Rue de la Loi

1040 Brussels, Belgium

Tel.: 32.2.231.03.40

Fax: 32.2.231.07.04

Website: <http://www.theepc.be/>

The European Round Table of Industrialists (ERT)

113 Avenue Henri Jaspar

B-1060 Brussels, Belgium

Tel.: 32.2.534.31.00

Fax: 32.2.534.73.48

Website: <http://www.ert.be/>

The Transatlantic Policy Network

Rue Froissart 115, 1st floor

B-1040 Brussels, Belgium

Tel.: 32.2.230.61.49

Fax: 32.2.230.58.96

Website: <http://www.tponline.org/>

TransAtlantic Business Dialogue – TABD EU Office

115 Rue Froissart

B-1040 Brussels, Belgium

Tel : 32.2. 231.17.28

Tel: 00 44 78 01 03 84 55

Fax: 32.2.231.02.54

Website: <http://www.tabd.com>

TransAtlantic Business Dialogue – TABD US Office

TABD c/o CSIS

1800 K Street, NW

4TH Floor

Washington, DC 20006

Tel: (202) 775 32 51
Fax: (202) 775 31 99
Website: <http://www.tabd.com>

Trans European Policy Studies Association (TEPSA)

11 Rue d'Egmont
B-1000 Brussels, Belgium
Tel.: 32.2.511.34.70
Fax: 32.2.511.67.70
Website: <http://www.tepsa.be/>

Key EU-related websites:

For general information on the European Union:

<http://www.europa.eu.int/>

The EU's portal website

<http://www.euractiv.com/>

Resource for EU news, policy positions and actors

<http://www.eurunion.org/infores/euindex.htm>

A to Z index of European Union websites

For information on topics related to doing business in the European Union:

<http://europa.eu.int/business>

EU's "One Stop Internet Shop for Business"

(EU funds, technical standards, intellectual property law, and free access to public procurement tender notices via the Tenders Electronic Daily (TED) database).

<http://www.eurunion.org/infores/business/business.htm>

Business tools & information resources

<http://www.eurunion.org/infores/business/chambers.htm>

EU Member State Chambers of Commerce in the U.S.

<http://mkaccdb.eu.int/>

EU market access database (information on tariffs and other trade information)

<http://europa.eu.int/celex>

CELEX – Access to EU law

<http://www.cordis.lu/>

CORDIS – Community Research and Development Information Service (EU research and innovation website)

<http://europa.eu.int/comm/eurostat>

European Commission Statistical Office (Eurostat)

<http://publications.eu.int/>

EU Office of Official Publications

<http://europa.eu.int/euro/>

EU official website on the euro

<http://www.ecb.int/>

European Central Bank, Frankfurt

<http://www.eib.org/>

European Investment Bank, Luxembourg

<http://ue.eu.int>

Council of the European Union

<http://www.europarl.eu.int/>

European Parliament

<http://www.curia.eu.int/en/index.htm>

European Court of Justice

<http://europa.eu.int/idea/en/index.htm>

IDEA – Electronic Directory of the European Institutions

Market Research

[Return to top](#)

To view market research reports produced by the U.S. Commercial Service please go to the following website: <http://www.export.gov/marketresearch.html> and click on Country and Industry Market Reports.

Please note that these reports are only available to U.S. citizens and U.S. companies. Registration to the site is required, but is free of charge.

Trade Events

[Return to top](#)

Please click on the links below for information on upcoming trade events.

<http://www.export.gov/tradeevents.html>

<http://www.buyusa.gov/europe/tradeevents.html>

<http://www.euroseafood.com/>

[Return to table of contents](#)

Chapter 10: Guide to Our Services

The U.S. Commercial Service offers customized solutions to help your business enter and succeed in markets worldwide. Our global network of trade specialists will work one-on-one with you through every step of the exporting process, helping you to:

- Target the best markets with our world-class research
- Promote your products and services to qualified buyers
- Meet the best distributors and agents for your products and services
- Overcome potential challenges or trade barriers

For more information on the services the U.S. Commercial Service offers U.S. businesses, please click on the links below.

<http://www.buyusa.gov/europe/>

<http://www.buyusa.gov/europeanunion/>

[Return to table of contents](#)

U.S. exporters seeking general export information/assistance or country-specific commercial information should consult with their nearest **Export Assistance Center** or the **U.S. Department of Commerce's Trade Information Center** at (800) USA-TRADE, or go to the following website: <http://www.export.gov>

To the best of our knowledge, the information contained in this report is accurate as of the date published. However, **The Department of Commerce** does not take responsibility for actions readers may take based on the information contained herein. Readers should always conduct their own due diligence before entering into business ventures or other commercial arrangements. **The Department of Commerce** can assist companies in these endeavors.